

# Exhibit 24

**B.P.**

**vs.**

**City of Johnson City, Tennessee, et al,**

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**ERIC DAIGLE**

**June 10, 2024**



Lexitas Legal | TENNESSEE | 1015 Avery Park Dr | Smyrna, TN 37167 | (615) 595-0073



1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF TENNESSEE  
3                   GREENEVILLE DIVISION

4       B.P., H.A., and S.H.,                   )  
5       individually, and on behalf of       )  
6       all other similarly                   )  
7       situated,                               )

8                               Plaintiffs,       )  
9    )  
10   )

11       v.                                        )  
12   )

  No. 2:23-CV-00071  
  TRM-JEM

13       City of Johnson City,                )  
14       Tennessee, et al,                    )  
15   )

16                               Defendants.       )  
17   )

18                               \* \* \* \* \*

19                               DEPOSITION OF ERIC DAIGLE  
20                               (Via Zoom)

21                               June 10, 2024

22       =====

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1 D E P O S I T I O N,

2 The deposition of ERIC DAIGLE, taken at the  
3 request of the Plaintiffs, pursuant to the Federal  
4 Rules of Civil Procedure, on the 10 day of June,  
5 2024, at the Keyston Community Center, Johnson City,  
6 Tennessee, before Jeffrey D. Rusk, Registered  
7 Professional Reporter and Notary Public at Large for  
8 the State of Tennessee.

9 It is agreed that the deposition may be  
10 taken in machine shorthand by Jeffrey D. Rusk,  
11 Registered Professional Reporter and Notary Public,  
12 and that he may swear the witness and thereafter  
13 transcribe his notes to typewriting and sign the  
14 name of the witness thereto, and that all  
15 formalities touching caption, certificate, filing,  
16 transmission, etc., are expressly waived.

17 It is further agreed that all objections  
18 except as to the form of the questions are reserved  
19 to on or before the hearing.  
20  
21  
22  
23  
24  
25

1 (Proceedings began at 9:30 a.m.)

2 VIDEOGRAPHER: Okay. We are on the  
3 record. Today's date is June 10th, 2024.  
4 The time is 9:30 a.m. Eastern time.

5 This is the video-recorded  
6 deposition of Eric Daigle in the matter of  
7 B.P., et al, versus Johnson City, et al,  
8 Case 2-23-CV-0071 in the U.S. District Court  
9 for the Eastern District of Tennessee.

10 This deposition is being held via  
11 Zoom video conference. The reporter's name  
12 is Jeff Rusk. My name is Chris Rusk. I am  
13 the certified legal videographer. We are  
14 with Lexitas Legal.

15 Would the attorneys present -- or  
16 would the attorneys present please introduce  
17 themselves and the parties they represent?

18 MS. KRAMER: Good morning. My name  
19 is Elizabeth Kramer from Erickson Kramer  
20 Osborne, and I'm here representing the  
21 plaintiffs.

22 MS. COLLINS: Heather Collins, as  
23 well, and Julie Erickson also.

24 MR. LAKEY: Jon Lakey here for the  
25 City of Johnson City.

1 MR. GRANT: Keith Grant and Laura  
2 Beth Rufolo here for Justin Jenkins, Jeff  
3 Legault, and Brady Higgins.

4 MR. RADER: This is Danny Rader  
5 here for Kevin Peters.

6 VIDEOGRAPHER: Okay. Thank you.  
7 Would the court reporter please  
8 swear in the witness?

9 COURT REPORTER: Okay. Mr. Daigle,  
10 I'm going to go ahead and swear you in.  
11 Would you raise your right hand,  
12 please?

13 THE WITNESS: Yes, sir.

14 COURT REPORTER: Do you swear or  
15 affirm the testimony you're about to give  
16 will be the truth, the whole truth, and  
17 nothing but the truth?

18 THE WITNESS: I do.

19 COURT REPORTER: Okay. Thank you.

20 ERIC DAIGLE,  
21 called as a witness at the instance of the  
22 Plaintiffs, having been first duly sworn, was  
23 examined and deposed as follows:  
24  
25

EXAMINATION

BY MS. KRAMER:

Q. Good morning, Mr. Daigle.

A. Good morning, ma'am.

Q. Would you give me your full name and title please?

A. My name is Eric Daigle, D-a-i-g-l-e. I'm an attorney.

Q. And tell me about your business, the Daigle Law Group.

A. Daigle Law Group is a law firm incorporated here in the state of Connecticut. It's -- the best way to describe it is a law firm that doesn't do much law. We're a consulting practices firm, management organizational firm for government entities across the country. Our specialty mainly -- our main specialty is law enforcement operations. We also obviously get into corrections and fire a little bit, but our -- we have a whole host of services here from policy development, to training, to consulting services, to applicant testing. Kind of like a one-stop shopping for our municipal clients across the country.

Q. What is applicant testing?

A. When you are -- when you want to be



1 a police officer, you have to take a test. So for  
2 both applicant testing and promotional testing, part  
3 of our services render the -- assist the agency in  
4 testing candidates.

5 Q. I see. Thank you.

6 What did you do to prepare for your  
7 deposition today?

8 A. Just read a bunch of stuff. I went  
9 through my -- my testimony in the Dahl matter, my  
10 deposition transcript that was taken in December,  
11 and I went through my report to just try and get  
12 myself familiar with the facts and circumstances  
13 that you would be asking about today.

14 Q. Anything other than the Dahl  
15 transcript and the report that you reviewed before  
16 today?

17 A. Yes. I went through the -- just a  
18 general review of the file that you should have  
19 obtained as part of the discovery here. I'll call  
20 it our consulting file or our assessment file which,  
21 you know, had our working documents and stuff that  
22 we obtained throughout the investigation, and also  
23 specifically some reports that were drilled down  
24 in -- during the Dahl deposition as to, you know,  
25 sample or examples that I utilized in the report

1 that was asked, you know, specifically what report  
2 was this and who was the victim and who was the  
3 suspect in that area.

4 Q. Do you know what an errata is?

5 A. An errata sheet?

6 Q. Yes.

7 A. Yes.

8 Q. Do you -- do you recall, did you  
9 make any changes to your testimony given in the Dahl  
10 deposition that would be reflected on an errata  
11 sheet?

12 A. No, because I didn't even get a  
13 copy of the deposition until last week. I had  
14 realized that no one had ever sent me one. And as I  
15 was preparing for this deposition, I reached out to  
16 all the parties and said, "I'd really kind of like  
17 to get a copy of that," and so I received it last  
18 week. So I did not ever complete an errata.

19 Q. Based upon your review, did you see  
20 any items of testimony that you believe need to be  
21 corrected?

22 A. Nothing -- nothing jumped out, no.

23 Q. Did you speak to anybody in  
24 preparation for your deposition today?

25 A. Yes. I did speak with you briefly

1 on Friday to set up the -- just to let me know that  
2 you guys were coming into town, and then I spoke to  
3 an attorney, Danny Rader, on Saturday. He'd been  
4 trying to just contact me last week, and I spoke to  
5 him on Saturday for about 15 or 20 minutes during  
6 that time.

7 Q. And what was your discussion with  
8 Danny Rader about on Saturday?

9 A. You know, usual deposition  
10 preparation. The fact to tell the truth. And then  
11 specifically he was reviewing some of my previous  
12 testimony in the Dahl matter and asking whether I  
13 still felt the same way that I testified to before,  
14 specifically on topics of whether there was any  
15 corruption that I located during the course of  
16 the -- of my assessment and, if I did, would I bring  
17 it to people's attention. And as I had testified in  
18 the prior deposition, obviously, that's something  
19 that we would do.

20 And also specifically questions  
21 about the fact that the investigations had gotten  
22 better over the -- over the years, and so it was  
23 basically, "Hey, here's what you said in your  
24 deposition. Do you still agree with that?" And  
25 obviously, if I said it in my deposition, I still

1 agree with it, so --

2 Q. And so it's your understanding that  
3 Danny Rader had a copy of the transcript of the  
4 deposition that you gave in the Kat Dahl case?

5 A. Well, he's asking me questions  
6 about it. So I can -- I don't know for sure, but I  
7 can assume so.

8 Q. Did he refer to specific testimony  
9 as if he were reading it off the document itself?

10 A. I don't know.

11 Q. You didn't record that conversation  
12 with Danny Rader, did you?

13 A. I did not.

14 Q. Did you take any notes?

15 A. I did not. I was actually in my  
16 car taking my child to get Jersey Mike's. So it was  
17 a -- it was -- that wasn't an in-depth conversation.

18 Q. But you said Danny asked you some  
19 questions about corruption.

20 Can you tell me what you remember  
21 from that portion of your conversation?

22 A. Yeah. I had made a statement that  
23 I saw in my deposition that said obviously -- that  
24 said during the course of my assessment if I had  
25 come up -- if I had identified any corruption within

1 the Johnson City Police Department, would I have  
2 brought it to the attention of the people that  
3 retained me.

4 And I said, as I said in the  
5 deposition, obviously the way I do business, I'm  
6 integrity based. If I found something that -- in  
7 the assessment that had led to corruption, I would  
8 have -- I would have addressed it. But also I was  
9 just doing an assessment, not an investigation. So  
10 that wasn't the scope of my analysis.

11 So I just stayed consistent to my  
12 previous statement, which is if I see something that  
13 I would classify as corruption in my world, I would  
14 bring it to somebody's attention.

15 Q. But the evaluation that you did for  
16 your report did not include any -- you were not  
17 asked to look for corruption in the context of the  
18 report that you did for Johnson City; is that right?

19 A. I was not.

20 Q. Did you -- in connection with your  
21 report, did you ask whether there had been  
22 allegations of corruption against the Johnson City  
23 Police Department?

24 A. I didn't ask. I've known since I  
25 completed the investigation over two years ago, you

1 know, there's been media reports of different things  
2 occurring with different individuals. Not my issue.  
3 It's interesting to read, but not part of my  
4 assignment. So I'm aware that, through media  
5 reports, that there's been additional allegations  
6 and other lawsuits filed, but that's the scope of my  
7 knowledge.

8 Q. And so you haven't tested any of  
9 those allegations regarding corruption?

10 A. I have not, no.

11 Q. Did anybody other than Danny Rader  
12 reach out to you in advance of your deposition  
13 today?

14 A. No. There were different -- I  
15 think someone from your office sent me my subpoena,  
16 and there were emails, but I think everybody was on  
17 the emails that were there. I don't remember  
18 anything specific other than those general emails to  
19 schedule and address the deposition.

20 Q. No other counsel for a defendant in  
21 this case reached out to speak to you ahead of your  
22 deposition; is that --

23 A. No.

24 Q. -- correct?

25 Looking back at the Dahl

1 deposition, were you contacted by Danny Rader ahead  
2 of your deposition in the Dahl case?

3 A. I don't believe so.

4 Q. Were you contacted by any of the  
5 defense counsel in the Dahl matter ahead of your  
6 deposition in that case?

7 A. I don't believe so. I -- you know,  
8 I don't really like to have conversations with  
9 people prior to my depositions. And I tell them  
10 very clearly that if you choose to have this  
11 conversation, you know the rules of the  
12 conversation, so -- but I believe, even in reviewing  
13 my testimony, I think I testified that I hadn't  
14 talked to anybody before that.

15 Q. Did you advise Danny Rader that you  
16 preferred not to speak substantively about your  
17 testimony ahead of giving a deposition?

18 A. I don't think I said that to him.

19 Listen, I'll take a phone call from  
20 anybody. The attorneys know the rules of the game.  
21 So I don't have to -- I shouldn't have to explain it  
22 to them.

23 Q. I agree.

24 Going back to that conversation  
25 that you had with Danny, you mentioned that he asked

1 you about some specific conclusions that you had  
2 made in the Dahl transcript and asking if you had  
3 changed those.

4 Can you recall with any more  
5 specificity what those were?

6 A. No, it was just those two issues.

7 MR. RADER: I'm just objecting to  
8 the form of that question.

9 A. Just it was those two topics,  
10 corruption and then a topic -- the second part, it  
11 was -- I just said it, and I can't remember it.

12 The one was about corruption and,  
13 you know, is that what you had testified to? Oh,  
14 and the other was about in my assessment I had said  
15 that the investigations had gotten better over the  
16 years, in looking at data sets from '18, '19, and  
17 '20 versus data sets from '21 and '22, and that the  
18 investigations seemed to be more -- developing a  
19 little better than they were back in '18, '19. And  
20 he asked me if that was still my opinion. It didn't  
21 change.

22 Q. (BY MS. KRAMER) Have you received  
23 any additional data or information from Johnson City  
24 since the information that was provided to you in  
25 connection with publishing your report?



1           A.           No.

2           Q.           Have you received data or  
3 information from anybody that would alter any of the  
4 conclusions that you made in your report?

5           A.           Well, once I completed this  
6 investigation, I have heard from nobody and received  
7 nothing regarding this -- the assessment that we did  
8 here.

9           Q.           Can you tell me a little bit about  
10 your educational background?

11          A.           Sure. I have a sociology degree  
12 from Central Connecticut State University and a  
13 juris doctorate degree from Quinnipiac University  
14 School of Law.

15          Q.           And what did you do immediately  
16 following law school?

17          A.           So, unfortunately, my world is not  
18 that simple. I've done many things at the same  
19 time. So I think the best bet is just to kind of go  
20 over, if you want my history up to this point, if  
21 you'd like me to.

22          Q.           Sure.

23          A.           Okay. So I started in the  
24 military. I started as an Army reservist while I  
25 was in high school. I was a military police

1 officer. I then went active duty as a military  
2 police for Desert Shield/Desert Storm. I toured  
3 overseas. I came back from my deployment.

4 At this point, I hadn't started  
5 college yet. I actually started taking some classes  
6 at a community college, and then I was hired by the  
7 Connecticut State Police in 1992. I started my  
8 career with the Connecticut State Police in the  
9 summer of '92. And once I got on the state police,  
10 you know, I got on the job. I started my -- so I  
11 did both my undergrad and my juris doctorate degree  
12 at night while working night, days, whatever. I was  
13 working shift work. So I did my education along  
14 with my career with the state police, where I spent  
15 about a decade with the state police.

16 Q. What kinds of work were you doing  
17 with the state police?

18 A. So I've always been an investigator  
19 at heart. So when I started here, you know, a lot  
20 of people don't understand. Connecticut is a unique  
21 state. We don't have sheriffs' offices. We only  
22 have state police and local law enforcement. And  
23 because of the size of the state, the state police  
24 often, in the New England areas, are the entity that  
25 you call when you need anything above resources

1 available to you.

2 A lot of departments here are  
3 small, 30, 40 members. And so state police, which  
4 at the time was about 1250 strong, we are pretty  
5 much the supporting law enforcement for the state.

6 So I came on, and I started my  
7 career in patrol, and did patrol for two years. And  
8 then once I was able to get patrol under my belt, I  
9 took an assignment at the Department of Corrections  
10 as a state police liaison investigator, spent  
11 two years there.

12 Basically, in that job, there are  
13 state troopers assigned to correctional facilities  
14 in the state of Connecticut, and your job is to  
15 obviously investigate criminal acts that occur  
16 inside a correctional facility. And once I did that  
17 for two years, I finally got to where I wanted to,  
18 which was what we call major crime squad.

19 In the state of Connecticut there's  
20 three major crime squads; central, east, and west.  
21 We are a really easy state. And I spent the rest of  
22 my career working major crime, which is basically a  
23 felony investigation unit. As you work your way up,  
24 you work -- you know, with experience you get better  
25 and investigations. So I spent the remainder of my

1 career and at the end of my career working homicide  
2 and cold case homicide, until I took a vested  
3 retirement in 2002, when I went over to a law firm  
4 to practice law.

5 Q. In your tenure with the state  
6 police, did you see robberies?

7 A. Yes.

8 Q. Rape?

9 A. Yes.

10 Q. Murder?

11 A. Yes.

12 Q. Was there a type of crime that was  
13 what you would consider low level that generally did  
14 not get to the state patrol?

15 A. Well, you know, the troopers  
16 themselves would have, you know, burglaries and  
17 larcenies, low-level crimes. The troopers working  
18 patrol could come up to major crime and ask for  
19 assistance if they needed assistance with some type  
20 of evidence processing or something like that, so --  
21 and a lot of times towns, like even here, a lot of  
22 problems like they have now across the country is  
23 stolen vehicles. A lot of times the town and the  
24 state police will work together to deal with  
25 low-level crime, the crimes that are more frequent

1 and have a more direct effect on operations.

2 Q. In your time with the major crime  
3 squad, you mentioned homicide and cold case  
4 homicide.

5 Did you also deal with sex-related  
6 crimes?

7 A. I did, yes.

8 Q. And can you describe the scope and  
9 the frequency of those types of cases that you dealt  
10 with?

11 A. So it really started -- you would  
12 get it as a patrol trooper. But then obviously as a  
13 patrol trooper, you're not qualified to handle that.  
14 So you would take the initial complaint and move it  
15 over to major crime. So my first two years, you  
16 just -- you know, you're kind of the first  
17 responder.

18 Once I went over to the prisons,  
19 unfortunately, I got a lot of them in the prisons  
20 and -- from all just low level to, you know, sexual  
21 assaults, to violent sexual assaults for the  
22 two years I was with the prisons.

23 And then in major crime, we would  
24 get, you know, sexual assault investigations,  
25 whether they involve juveniles or ladies or males

1 and, you know, it was just an ordinary -- you get  
2 them as an ordinary course of business.

3 Q. You said you moved over to a law  
4 firm after your work in law enforcement.

5 What type of law firm did you move  
6 to?

7 A. So I went to a firm here in  
8 Connecticut called Halloran & Sage. Halloran & Sage  
9 has offices in the East Coast, and they're pretty  
10 much an insurance defense firm. It's a bigger sized  
11 firm, but the reason why I went there was that there  
12 was an opportunity to specialize in municipal  
13 defense and law enforcement defense, you know. The  
14 defense of law enforcement agencies, at least here  
15 in New England, is insurance based. And so outside  
16 counsel is usually hired for 1983 claims that come  
17 into allegations.

18 So the opportunity was there to  
19 bring my knowledge and expertise over while learning  
20 law. And back in those days, the good part was, you  
21 know, we were litigators and we actually did  
22 litigate. So I did that for -- I was at Halloran &  
23 Sage for approximately eight years, where not only  
24 was I responsible for, you know, litigating cases,  
25 but I also ran an investigative team and started to

1 do consulting work while I was with that firm.

2 Q. So did you work on 1983 cases  
3 specifically since the start of your work at the law  
4 firm?

5 A. Yeah. That's all I did, yeah.

6 Q. And you tried Section 1983 cases?

7 A. Yes.

8 Q. Approximately how many Section 1983  
9 cases do you think you tried?

10 A. Back in those days, 2002, we tried  
11 cases. And when you were a new associate -- there's  
12 not a lot of insurance settlement back then, and I  
13 feel bad for the young attorneys of today that  
14 aren't getting that skill set.

15 But back in those days, you walked  
16 in the office, they handed you a file, and you were  
17 in court the next day, whether you knew what you  
18 were doing or not. But we tried a lot of cases back  
19 in the early 2000's.

20 Q. Do you think you tried more than  
21 ten?

22 A. Oh, yeah, clearly more than ten.  
23 Yes, more than ten. I would say it had to be in  
24 the -- I mean, I was there for eight years. I tried  
25 a lot. In the main portions, I mean, we would

1 average -- somebody on the team could have a trial,  
2 let's say, maybe three to four a year, if you have  
3 big ones, you know, officer-involved shootings or  
4 excessive force cases. And I would sit sometimes  
5 second chair, first chair, as you're starting to go  
6 through. So, you know, maybe 30, 20 to 30 would be  
7 a fair number.

8 Q. In each of these cases, you were  
9 representing a defendant police officer; is that  
10 correct?

11 A. Yes.

12 Q. Or a defendant police department;  
13 is that correct?

14 A. Yes. Except I did have, every once  
15 in a while, a unique criminal matter with a police  
16 officer that was being represented outside of the  
17 civil world, but the majority of it was civil.  
18 Every once in a while we would get a criminal matter  
19 that would come in, too, but they were all for the  
20 defense of law enforcement.

21 Q. And you've never worked on behalf  
22 of a plaintiff against a police officer, right?

23 A. As a litigator, I have not. I've  
24 never tried a case against a police department.

25 Well, I take that back. I have



1 sued police departments for officers I guess it's  
2 just a big -- yeah, so that's very few, but I have  
3 done that, not as an external citizen suing a  
4 municipal entity.

5 Q. Understood.

6 So in that context it would be a  
7 police officer who is suing their own police  
8 department, for example, for wrongful termination.

9 A. Yes.

10 Q. Let's move forward in time to when  
11 you start consulting.

12 Do you remember what year that was?

13 A. So I started doing it during the  
14 course of my time with Halloran & Sage as the era of  
15 what we call legal advising for municipal  
16 organizations started to get a little bit more  
17 developed at that time. And that would be just, you  
18 know, giving law enforcement executives or city  
19 councils advice on different items, different  
20 weapons, different implementations, while also at  
21 the same time, you know, assisting them in drafting  
22 policy, and a lot of training. It was at that time  
23 I started building training courses to enhance skill  
24 sets of our clients.

25 Q. I forgot to ask.

1           A.           Sure.

2           Q.           In the approximately 30 trials that  
3 you litigated on behalf of a police officer or  
4 police department, what was your success rate?

5           A.           Well, the interesting part of  
6 defense work is you don't like to ever lose. So you  
7 either win or settle. So I don't think I have a  
8 loss under my belt, but I probably have a lot of  
9 settlements.

10          Q.           What would you estimate is the  
11 number of settlements versus jury verdicts in  
12 approximately 30 trials?

13          A.           That's a hard number.

14                       MR. LAKEY: Object to form.

15          A.           Yeah, that's a hard number. I  
16 mean, we settled. I mean, remember, we're  
17 talking -- the confusion is that we also settled the  
18 cases that didn't go to trial. And you would -- you  
19 know, in the world of municipal litigation, there's  
20 a lot of cases. So I don't -- I wouldn't be  
21 comfortable answering the question.

22          Q.           Okay. So going back to consulting,  
23 you mentioned developing policies, assisting with  
24 training.

25                       At what point did your -- did you

1 open Daigle Law Group?

2 A. I opened Daigle Law Group in 2010,  
3 May of 2010. There was an opportunity at that time.  
4 We were under President Obama's administration, and  
5 during that time a lot of scrutiny was being placed  
6 into law enforcement agencies. Department of  
7 Justice was becoming very active in investigations  
8 of municipal entities across the country. And it  
9 kind of took off to a whole nother level, which  
10 is -- with consent decrees and settlement agreements  
11 and DOJ investigations that there was an opportunity  
12 to focus on working with or through or even against  
13 departments to get them through the struggles they  
14 were having.

15 Q. So Daigle Law Group -- obviously  
16 you will prepare a report for a client, just as a  
17 matter of ordinary business function, like the  
18 report that you produced for Johnson City Police  
19 Department, correct?

20 MR. LAKEY: Object to form.

21 Q. (BY MS. KRAMER) And then you also  
22 produce, I expect, reports in connection with  
23 litigation; is that right?

24 MR. LAKEY: Object to form.

25 A. We don't really do much litigation.

1 So the only -- I don't know if you're referring to  
2 like expert witness reports.

3 Q. (BY MS. KRAMER) Correct.

4 A. Yeah. Yeah. So I do have a heavy  
5 caseload of expert witness work. And so expert  
6 witness report would be where you're working for one  
7 side versus the other, and that -- yes, we have a  
8 lot. We -- I would do those, too.

9 Q. And I know it's hard to estimate  
10 going back to 2010, but do you know approximately  
11 how many times you've been engaged to produce an  
12 expert report in litigation?

13 A. Yeah. I actually do this because I  
14 get asked this question every single time, and so I  
15 keep a little note sheet to keep myself active.

16 So currently I have 73 expert  
17 witness cases, and the breakdown on the expert  
18 witness cases and deposition -- the depositions we  
19 just continue to add. So I have six plaintiffs  
20 cases 45 defendant cases, five labor arbitrations,  
21 16 criminal cases, 13 are for prosecution and three  
22 are for defense, and one POST, which is the Police  
23 Officer Standards and Training, revocation for the  
24 State of Vermont.

25 Q. When you said 73 currently, is that

1 73 -- these are totals from the inception of Daigle  
2 Law Group; is that correct?

3 A. Since 2000 -- since I started doing  
4 expert witness work in 2010, yes.

5 Q. Okay. And you mentioned six  
6 plaintiff reports.

7 Were those plaintiffs citizens  
8 suing a police officer or police department?

9 A. Yes.

10 Q. How were you engaged in those  
11 matters generally?

12 A. A good -- most of them were early  
13 in my career, and that would be an attorney looking  
14 for an expert's opinion on a type of police  
15 interaction, whether it was a -- a lot of my work is  
16 excessive force allegations. Every once in a while  
17 we'll have an investigation case or a, you know,  
18 pursuit or a false arrest claim, something to that  
19 regard.

20 And so the attorney would just  
21 reach out to you and, you know, the way -- the way  
22 that we do this is very structured, or at least the  
23 way you should do it is very structured, which is  
24 you will talk to the attorney. And then the way I  
25 take a case is, if I choose to take it, you know,

1 you don't know what you're getting until I do my  
2 work. And then I'll tell you what you're getting,  
3 and sometimes you might not like that, but it's just  
4 the way it goes.

5 Q. Where any of these six plaintiff  
6 cases in the last ten years?

7 A. Just one, I think. I think it  
8 doesn't count, but I think I've been noticed as an  
9 expert in the Dahl matter for the plaintiff. So  
10 I -- obviously I did not write a report specific to  
11 that area, so -- but I get to put that on my list, I  
12 guess.

13 But the last one that I did, I want  
14 to say, was -- it definitely was within the last  
15 ten years because -- yes. The answer is yes. So I  
16 think it was about 2015 is the last specific case  
17 for plaintiff.

18 I'll take calls from anybody, you  
19 know, and I get a lot of calls from both plaintiff's  
20 and defense counsel. I'm pretty straightforward. I  
21 let them know how it's going to be. If they want to  
22 engage and pay the fee, I'll tell them what I think  
23 of their case. A lot of times I don't get a lot of  
24 calls back after that, but I'm not against taking  
25 the cases. It just has to be a case that I'm

1 willing to testify about.

2 Q. How many times have you testified  
3 at trial?

4 A. So a lot. I'll just -- because  
5 that's a question I get. So I started my career,  
6 obviously, with state police and in major crime.  
7 And in major crime, especially later in my career  
8 where I was working homicide, you testify a lot.  
9 You know, you -- all of your homicides, you know,  
10 pretty much most of them go to trial. So you end up  
11 testifying there.

12 Once I started the consulting work  
13 and the expert witness work, I have testified in  
14 one, two, three, four, five, six, seven, eight -- I  
15 have been noticed in eight states as an expert. And  
16 that would be Connecticut, Tennessee, California,  
17 Wyoming, Massachusetts, Utah, and Maine. I think  
18 that's everyone.

19 There's a -- and it's a broad  
20 range, because now it's not just expert witness  
21 work. It could be -- it could be -- we do a lot of  
22 internal affairs investigations, and a lot of times  
23 you're testifying at a labor board or at a civil  
24 rights lawsuit when someone is terminated for either  
25 side.

1           Q.           Do you ever interact with a police  
2 officer unions?

3           A.           Well, what do you mean by interact?

4           Q.           Do you -- are you ever engaged by a  
5 police officer union to conduct an investigation?

6           A.           Never for -- I do -- so up here in  
7 the northeast and in your neck of the woods, the  
8 west coast, are strong union areas. So we engage  
9 with the union a lot on policy development and  
10 operations.

11                       I have never been retained by a  
12 union to do an investigation. I have been retained  
13 by a union, and my latest one was Henderson, Nevada,  
14 to give an opinion on, you know, something that the  
15 chief was doing. So it's very rare, but it has  
16 occurred.

17           Q.           Do you remember if you testified at  
18 trial in any of the six cases that you mentioned  
19 where you were working for the plaintiff?

20           A.           I did not, no.

21                       MS. KRAMER: What I will mark as  
22 Exhibit 113?

23                       COURT REPORTER: Yes, that's  
24 correct. 113 is our next exhibit number.

25                       (Exhibit 113 marked).



1 MS. KRAMER: Great.

2 Oh, I'm sorry. This is just the  
3 subpoena. I did not -- I did not bring you  
4 a copy. I'm sorry, Jon.

5 Q. (BY MS. KRAMER) Have you seen that  
6 before?

7 A. Yes. I believe I received this on  
8 Friday from your office.

9 Q. Okay. Great.

10 And then I'm also going to direct  
11 you to what's been previously marked as Exhibit 56,  
12 which is what we call very fondly the Daigle report.

13 MR. LAKEY: We want to have one  
14 that says 56 on it.

15 Q. (BY MS. KRAMER) For you.

16 A. Thank you, ma'am.

17 Q. Have you seen that document before?

18 A. Yes, I have.

19 Q. Does that look to you to be a  
20 correct copy of your report?

21 A. Yes. It's got some new stuff on  
22 it, like a Bates number and an exhibit sticker. But  
23 other than that, it looks like the same thing.

24 Q. And you prepared that report,  
25 correct?

1           A.           I did, yes.

2           Q.           Do you remember approximately when  
3 you were engaged by the Johnson City Police  
4 Department to prepare that report?

5           A.           So I wasn't engaged by the police  
6 department. I was engaged by the City and through  
7 the City Attorney's office. And I think there is a  
8 document -- there is an actual retainer agreement,  
9 and I'm sure you'll show me, but I want to say in  
10 the summer of 2002.

11          Q.           And you said you were contacted by  
12 someone in the legal department.

13                       Do you remember who that was?

14          A.           Yeah. Attorney Sunny Sandos.

15          Q.           Was it only Attorney Sunny Sandos  
16 that was on the initial phone call with you for the  
17 City?

18          A.           So I think as they usually do  
19 start, and if I remember correctly on this one, it  
20 starts as, "Hey," as an email, "Would you be  
21 interested in having a conversation about this," and  
22 then you have a conversation.

23                       I believe I had my first  
24 conversation with her, but then I knew there was --  
25 there was definitely other, you know, interviews

1 with the City Manager and other people in the room  
2 specifically about, you know, whether they want to  
3 choose to retain Daigle Law Group for this  
4 assessment or not.

5 Q. You mentioned the City Manager.

6 Was that Cathy Ball?

7 A. Yes.

8 Q. Do you remember anybody else from  
9 these initial conversations that you had?

10 A. No. There's -- there was another  
11 paralegal down there. There was -- sometimes -- I  
12 don't know in the first one. And, again, I  
13 apologize, number one, everything blends together  
14 and, number two, unfortunately, we keep doing these.  
15 So I -- the key part is that sometimes the -- Sunny  
16 or an outside attorney would be in those meetings.  
17 I don't think they were in the initial. I think it  
18 was just -- you know, Cathy Ball was very  
19 straightforward, and she just wanted to feel  
20 comfortable with making the decision on who to hire  
21 in that area and for this responsibility.

22 Q. Do you remember if an attorney  
23 named Erick Herrin was involved in those early  
24 conversations?

25 A. I don't believe so. I don't think

1 I met him until later in the investigation.

2 Q. You mentioned your Professional  
3 Services Agreement.

4 Do you recall a provision in that  
5 document that says the client is required to provide  
6 you adequate data for you to conduct your  
7 assessment?

8 A. Yes.

9 Q. Is that standard in all of your  
10 Professional Services Agreements?

11 A. Yes.

12 Q. And why is that important?

13 A. Well, because in -- you know, it's  
14 an interesting realm from when you enter into an  
15 assessment. And, again, I want to clarify it,  
16 because I'm going to use these words and I may even  
17 interchange them myself, but there's a difference  
18 between an assessment and an investigation.

19 In an investigation, I get to do  
20 whatever I want to and however I want to, to come up  
21 with my end results. In an assessment, you're  
22 assessing something. So it's a controlled  
23 environment, in the aspect of they hand you things  
24 and you assess them.

25 The challenge with any

1 investigation in my history in doing these is  
2 there's always parties involved, and sometimes you  
3 have open access to things, and sometimes you think  
4 you have open access to things and you don't. And  
5 as you can imagine as attorneys, there's oftentimes,  
6 as I learned in my early days when I'm sitting in a  
7 deposition or in trial testimony later, that they  
8 didn't give me everything that they were supposed to  
9 give me.

10 So that -- over the years that  
11 morphed into putting it in my agreement to say, you  
12 know, I'm going to ask you for it and, if you don't  
13 give it to me, then that's on you. And so that is a  
14 general -- that is a general stipulation.

15 Q. Did Johnson City agree to that  
16 stipulation?

17 A. Yes.

18 Q. And just to repeat your  
19 clarification, you were asked to do an assessment,  
20 which is fundamentally client controlled, for  
21 Johnson City, not an investigation which, in your  
22 words, are unrestricted.

23 MR. LAKEY: Object to form.

24 Q. (BY MS. KRAMER) So for this  
25 assessment that you did for Johnson City, did you

1 feel that you were given adequate data to conduct  
2 your assessment of the JCPD?

3 MR. LAKEY: Object to form.

4 A. Yeah, to the best of their ability  
5 to the -- to the key that I could, you know,  
6 determine. And as you can see in the report, the  
7 challenges were ones that we see sometimes in the  
8 fact that, you know, data is data. The quality of  
9 data is, if it's not good, then it really hampers  
10 your assessment and your analysis.

11 The key part here in Johnson City,  
12 I'm sure you'll get into, is obtaining the records.  
13 When you're doing an assessment of something like  
14 sexual assault investigations, it is -- you would  
15 expect certain things and just that's why you're  
16 getting asked to do it, right? You're used to  
17 reading these things. You're used to seeing them.

18 And, you know, I will say that  
19 their challenges were real challenges that was  
20 beyond, I think, the people who were responsible for  
21 providing me the documents. They worked very hard  
22 and diligently to get me what I needed but, in the  
23 end, it just was not enough.

24 Q. When you say it just was not  
25 enough, what do you mean by that?

1           A.           Well, I take seriously the aspect  
2 of doing an assessment. And just like any of us,  
3 you don't want to give a conclusion that doesn't  
4 have the true foundation to form that conclusion.

5                       In my world, unfortunately, I find  
6 myself in depositions and litigation often on my  
7 conclusions, and I want to make sure that my  
8 conclusions are legitimate. And also, as you would  
9 expect, I want to make sure that if I'm going to  
10 give a conclusion that is negative, that it's taking  
11 into account all the work that the men and women did  
12 in the department to get the job done.

13                      And unfortunately, one of the  
14 things, like I said in the report is that, I can't  
15 give them the full amount of credit because I don't,  
16 I don't know what they did or didn't do. I just  
17 know what I received. In looking at what I  
18 received, there's things missing. There's gaps.  
19 And so I have to assume, unfortunately, we hate that  
20 word, but I have to assume that if there's gaps,  
21 then it wasn't done.

22                      And I made many efforts to go back  
23 to them and say, "You know, come on, guys. I know  
24 you've got to have something somewhere." Like this  
25 is -- there's expectations that we would have in

1 these investigations.

2 Q. Setting aside that some of the  
3 documentation was unavailable from Johnson City, for  
4 each of the findings in your report, you made those  
5 only after believing that you had a true foundation  
6 for those findings; is that correct?

7 MR. LAKEY: I want to interject an  
8 objection, Ms. Kramer, or maybe we can make  
9 it a standing one. But to the degree that  
10 you're questioning calls for opinion  
11 testimony from the plaintiff, I'm going to  
12 note for the record that plaintiffs have not  
13 identified Mr. Daigle as an expert witness  
14 in their discovery responses, including the  
15 initial disclosure submitted in the case.

16 If the plaintiffs seek opinion  
17 testimony from this undisclosed expert,  
18 defendant objects and further objects on the  
19 basis that such testimony would not be  
20 within the permissible scope of a lay  
21 witness opinion testimony.

22 Now, every time you ask for an  
23 opinion from him, I'm going to interject it.  
24 So I'm glad to just have a standing  
25 objection to that if you -- if you agree to



1           it or, otherwise, I can make it each time.

2           MS. KRAMER: No need to make it  
3 each time.

4           MR. LAKEY: Thank you.

5           MR. RADER: I will join in that  
6 objection and, unless there's an objection  
7 from plaintiffs' counsel, I'm going to join  
8 in the objections of Mr. Lakey today so as  
9 not to disrupt this on Zoom.

10          MS. KRAMER: Noted.

11          MR. RADER: Is there -- do you  
12 agree that I can do that, or do I need to do  
13 it every time?

14          MS. KRAMER: You do not need to put  
15 your objection on the record if you are  
16 joining in the objections of Mr. Lakey.

17          MR. RADER: Thank you, ma'am.

18          MR. GRANT: I will join those also.  
19 This is Keith Grant for Jenkins, Legault,  
20 and Higgins.

21          MS. KRAMER: Understood.

22          Anybody else?

23          MR. ALLEN: Might as well join,  
24 too. Thank you.

25          Q.           (BY MS. KRAMER) Okay. So let's go

1 back.

2 So in your work on this report,  
3 Mr. Daigle, you have a number of what you call  
4 findings; is that correct?

5 A. Yes, ma'am.

6 Q. And you just mentioned that for  
7 each of your findings you like to make sure that you  
8 have what you said is a true foundation; is that  
9 correct?

10 A. To the best of my ability, yes.

11 Q. Having reviewed your report just  
12 yesterday, do you believe that you had a true  
13 foundation for the findings that you made in your  
14 report?

15 A. I do.

16 Q. So the report is titled Audit of  
17 Sex-Related Crimes.

18 How did you determine the scope of  
19 the sex-related crimes that would be the subject of  
20 this audit?

21 A. So starting with just identifying  
22 what are classified as sex-related crimes involving  
23 a victim in Tennessee utilizing the TIBRS  
24 notification, the TIBRS numbers, and getting data  
25 sets to try to reflect what they are. Obviously,

1 the rape is pretty easy one. And then we went down  
2 through the sex-related offenses in the -- in  
3 Tennessee.

4 Q. The report notes a comparison  
5 between the number of JCPD cases you identified and  
6 the number that were logged with TIBRS.

7 Do you remember that?

8 A. Yes.

9 Q. And your report says, quote, "The  
10 purpose was to ensure that the data provided by JCPD  
11 was consistent with the data discovered in the TIBRS  
12 system."

13 Can you explain what that means?

14 A. Yeah. So, you know, like any data  
15 analysis that anybody does, you want to have some  
16 checks and balances to the data. I mean, just  
17 because I'm asking the department how many of 11B's  
18 did you have doesn't mean the department's going to  
19 tell me the truth. So I need to have a way to  
20 independently audit that.

21 And since there is -- that is  
22 reported to the state on an annual basis, that  
23 reporting number is a way for me to audit the fact  
24 that the numbers that they were giving me versus the  
25 numbers that they reported to the State were

1 accurate.

2 Q. So the check, in other words, is  
3 just that the number that the City reported to you  
4 is the same as the number of the City reported to  
5 the State.

6 A. Yes.

7 Q. And you found that that number was  
8 consistent?

9 A. Yes. There's always -- just for  
10 the record, there's always going to be a little bit  
11 of inconsistency. TIBRS is, you know, sometimes the  
12 numbers may just fluctuate by one or two based on  
13 when the case was closed or how it was operated, but  
14 when I was deep into it, there was a direct  
15 correlation between the TIBRS numbers and the  
16 numbers that the City had given me.

17 Q. And do you recall what the  
18 approximate number was of the cases that you looked  
19 at?

20 A. I want to say there was 326 of my  
21 recollection, but --

22 Q. That is what --

23 A. -- I felt like I was studying for  
24 the bar again last night.

25 Q. That is what I see reflected here

1 on Page 7 of your report. So good memory.

2 A. Well, it's short term.

3 MR. LAKEY: Is that Bates 66547,  
4 Bates number?

5 MS. KRAMER: Yes.

6 MR. LAKEY: Let me try and --

7 Q. (BY MS. KRAMER) Mr. Daigle, do you  
8 know how many of these 326 cases involve women  
9 victims?

10 A. I don't.

11 Q. Do you recall whether any involved  
12 male victims?

13 A. It wouldn't be surprising that  
14 there was one or two. I would expect it to be a low  
15 number but, you know, I think just in general, in my  
16 experience in the country, that in -- from the time  
17 frame here, 2018 to 2022, '23, that there was -- I  
18 think in all departments we have seen an increase in  
19 male victims, in that male victims feeling  
20 comfortable enough to report the crime. But I did  
21 not -- it may be in our spreadsheets, but I don't  
22 remember a specific number.

23 Q. In working with these 326 cases,  
24 you concluded that that data set would be  
25 representative for purposes of your assessment; is

1       that correct?

2                       MR. LAKEY:   Object to form.

3               A.           Well, that's all I got.   So that's  
4       all -- I can't -- that was the totality of the data  
5       set to my understanding.

6               Q.           (BY MS. KRAMER) In other words, as  
7       far as you know, for the time period January 2018 to  
8       July 2022, the total number of sex-related crimes  
9       that JCPD had a case number for was 326.

10                      MR. LAKEY:   Object to form.

11              A.           That fit into these  
12       classifications, yes.

13              Q.           (BY MS. KRAMER) Understood.

14                      Did you feel comfortable using 326  
15       cases to do the assessment that you did that  
16       resulted in your Audit of Sex-Related Crimes?

17              A.           I did, and the good part is that,  
18       you know, any audit is based on the volume of the  
19       audit.   Anybody who does an audit wants to have a  
20       strong volume to be able to show -- you know, if  
21       you're auditing two things, you've got a 50 percent  
22       chance of failure.   So the more cases that you can  
23       audit, the more you can see patterns, which is  
24       really what we look for when auditing.

25                      And so specifically with the

1 forcible rapes and having 133 of those and -- you  
2 know, it was the cornerstone of this audit and those  
3 numbers in totality. Because, you know, the  
4 statutory rape, the forcible fondling, you know,  
5 those are, "Okay, what did we do?" But the real  
6 issue on the table was the significant victim crimes  
7 and the response to significant victim crimes.

8 So all of them are terrible. All  
9 of them are crimes, but the lower level might not  
10 need as much of an investigation as a forcible rape,  
11 for example, that could have forensics involved in  
12 it and, you know, different levels, additional  
13 levels of investigation needed.

14 Q. In your experience as compared to  
15 an assessment you may have performed for another  
16 police department, would 326 cases be a number  
17 you're comfortable with drawing conclusions from?

18 MR. LAKEY: Object to form.

19 A. I can't answer that, just because I  
20 don't -- you know, I've done audits on different  
21 things with less numbers, and I've done audits with  
22 more numbers. You know, the number is the number.  
23 That's what I have to work with. I don't really --  
24 whether I like it or not doesn't matter. It's what  
25 I've got. So I do think it's a number that will be

1 significant enough to show what I was looking for,  
2 which was patterns.

3 And, for me, the purpose of the  
4 audit is -- it's all -- it's not negative or  
5 positive. It's just what happened. So I want to  
6 make sure that when I'm doing an audit that I can  
7 also give people credit for the things they do  
8 right, along with identify things that they may fail  
9 then. So a volume -- the bigger the volume and the  
10 more significant the volume, obviously the better  
11 you can go through and say, "Okay, well, they did it  
12 right in these areas and they didn't do it right in  
13 these areas." So I was -- I think it was  
14 sufficient.

15 Q. (BY MS. KRAMER) You answered that  
16 question much better than I asked it. Thank you.

17 How did you land on the time period  
18 2018, January 2018 to July 2021?

19 A. That was a discussion with the City  
20 in a couple of different realms. Number one, they  
21 were looking at a specific time frame because of the  
22 allegations in the Dahl complaint. And not --  
23 that's not part of my world, but obviously I would  
24 want to include those years in the assessment,  
25 because the City was -- you know, Ms. Ball was



1 looking to make sure things were being done  
2 correctly, and so those had to be part of the  
3 assessment years.

4 When you're doing an assessment,  
5 with the -- with the changes -- and I hate that  
6 word, but with the progression in the way the world  
7 works, technology and scientific studies, and really  
8 just investigative practices, you have to get a  
9 workable time frame, right?

10 You can't go back ten years,  
11 because ten years ago they might not have done  
12 something that we do as a normal course of business  
13 nowadays, because technology is different. So  
14 adding all of those things together and looking at  
15 the numbers, I was comfortable with this -- with the  
16 range of years that we had come to an agreement on.

17 Q. Do you recall who at Johnson City  
18 you had these discussions with regarding the time  
19 period?

20 A. They would have definitely involved  
21 Sunny Sandos, Attorney Sandos, and either directly  
22 or indirectly the City Manager.

23 Q. Cathy Ball?

24 A. Yes.

25 Q. Do you remember anybody else

1 involved in those discussions?

2 A. There may have been other City  
3 Attorneys or paralegals that worked in the City. At  
4 this point, when we're doing all this, there's no  
5 outside involvement. It's just me and the City  
6 coming up with our scope of work, because that's  
7 something that's very important to me, for the  
8 protection of my team, is that we have to identify  
9 very clearly what the scope is, and set expectations  
10 so that later on, after we spend, you know,  
11 municipal money, you know, they don't come back and  
12 say, "Well, we wanted something else or we didn't  
13 expect to get this." So we do spend a lot of time  
14 setting expectations.

15 Q. Did you consider starting from an  
16 earlier date?

17 A. I don't recall, but I don't think  
18 so.

19 Q. And how about the end date being  
20 July 2022? How was that time selected?

21 A. That was the time in which we  
22 started this investigation, this assessment. So  
23 that's how the end date occurred, and it kind of  
24 even -- it kind of actually spread out a little bit  
25 more as the assessment continued on, but that was --

1 you know, I like to have hard numbers, and so the  
2 number was at the point of being retained.

3 Q. Did you review any documents from  
4 the City relating to sex-related crimes from before  
5 January 2018?

6 A. I don't -- I don't believe so.

7 Q. Did you find out anything about the  
8 City's record management system from before  
9 January 2018?

10 A. Yeah. It was the same one that we  
11 had in 2018. That Watson system had been something  
12 that was around for them for a while.

13 Q. Do you know how long a while is?

14 A. Not off the top of my head, no.

15 Q. Do you think it was more than  
16 five years?

17 MR. LAKEY: Object to form.

18 A. Well, just knowing municipal  
19 government the way I know it, in operations, is that  
20 when we get something that works, we keep it for a  
21 long time. So I assume it's probably been there for  
22 a while, but I don't know the exact -- when they put  
23 it in play.

24 Q. (BY MS. KRAMER) There's a section  
25 of your report that discusses methodology, and I

1 invite you to take a look at that section. It's at  
2 the bottom of Page 4 of your report.

3 A. I do see that. Thank you, ma'am.

4 Q. Can you describe for me generally  
5 what methodology you used in preparing this report?

6 A. So it's really -- the first part is  
7 going to be the methodology of the assessment, how  
8 it's going to occur. And the easiest way I explain  
9 to individuals is the way that normal people would  
10 do this would be broken down into three phases, you  
11 know.

12 The first phase would be a data  
13 collection phase, which is where you pull in the  
14 data that you need, and you begin to assess it and  
15 try to get an understanding of what's there, what's  
16 good, what you need more of, and where you're going.  
17 And, you know, one of the things, especially for us  
18 working for a lot of municipalities, money is a lot  
19 of times an issue. So we're trying to do this in as  
20 frugal a way as possible, and -- but at the same  
21 time to make sure it's effective. So the first  
22 phase would be the data collection phase.

23 Once we get through the data  
24 collection phase, or we realize that we need more,  
25 we would then go into the assessment phase. And the

1 assessment phase would be where we start to assess  
2 the data, and then we might need some clarity. And  
3 that's when we would probably -- that's when we  
4 do -- usually do on-site interviews for the purposes  
5 of trying to understand what we're trying to  
6 understand.

7 And then once we get through the  
8 second phase, which is the assessment phase, then we  
9 go to the report-writing phase. And the third phase  
10 is putting the report together, coming up with what  
11 the findings are going to be, what our  
12 recommendations to the clients are going to be, and  
13 then putting it together.

14 Q. And the methodology that you  
15 describe in this report is one that you stand by  
16 today; is that right?

17 A. Yes.

18 Q. Is it consistent with the  
19 methodologies that you use when you prepare reports  
20 for other clients?

21 A. Yes.

22 Q. And is it consistent with what  
23 other professionals in your space use in terms of  
24 methodology for evaluating a police department?

25 MR. LAKEY: Objection to form.

1           A.           I do believe so.

2                       MR. LAKEY:   Sorry.

3                       THE WITNESS:   My fault.

4           Q.           (BY MS. KRAMER) Was part of your  
5 methodology to look at how JCPD's policies  
6 compare -- sorry. Let me say that again.

7                       Was part of your assessment to look  
8 at how JCPD investigates sex-related crimes versus  
9 other serious crimes?

10          A.           No, because that would be a much  
11 deeper assessment. It would take more time and more  
12 resources. So we were very -- we were very focused  
13 on solely sex-related crimes.

14                      I'm sure, you know, there is a --  
15 there is a spillover that occurs, and the spillover  
16 is when you're -- like, for example, the JCPD policy  
17 is not a investigating sex-related crimes policy.  
18 It's a criminal investigation policy.

19                      So, you know, the skill set of  
20 sex-related crimes is no different -- I won't say no  
21 different, but it's pretty much an investigation, an  
22 investigation, an investigation. Meaning that, you  
23 know, we're going to expect to do certain things.  
24 And then, you know, 90 percent of the investigation  
25 is going to be just like any other crime, but

1       there -- but because of the topic of the  
2       investigation, there might be a more focused  
3       discipline that needs to be attached to that type of  
4       crime.

5               Q.           So, for instance, in any of your  
6       interviews, did you ask how an officer would handle  
7       a sex-related crime with respect to, say, evidence  
8       collection versus a serious but not sex-related  
9       crime?

10            A.           No.

11            Q.           Part of your methodology is what's  
12       referred to as an assessment tool.

13            A.           Yes.

14            Q.           It's also a spreadsheet.  
15                        If I call it the assessment tool,  
16       do you know what I'm talking about?

17            A.           It's a fancy word for spreadsheet.  
18       Yes, I got that.

19            Q.           Can you describe how that works?

20            A.           So assessing things are -- you  
21       know, is, for those of us that do this for a living  
22       and -- you know, it's not -- it's not rocket  
23       science. It's just very -- you have to be very  
24       meticulous and very methodical.

25                        So the way that I have always been

1 trained and the way that I do assessments is that  
2 you want to run all of the things you're assessing  
3 through the same scrutiny, right? So whether it's  
4 use of force or whether it's IA or whether it's  
5 sex-related crimes, you're building an assessment  
6 tool that allows you to take data and run it through  
7 the assessment tool for the purposes of asking very  
8 specific questions related to very specific things  
9 that you would expect.

10 And then once you do that, the  
11 assessment tool provides you the basis of  
12 assessment, because as you go through individual  
13 incidents and you fill out the assessment tool,  
14 you're going to find areas where there's failure or  
15 there's -- where there's something different, or  
16 it's going to allow you to compare one thing versus  
17 another.

18 Anybody who would just take one of  
19 these investigations, read it, put it down and take  
20 the next investigation, read it and put it down,  
21 none of us are that good. It has to be -- if I'm  
22 going to come to a conclusion and tell an agency  
23 that we have a good or a bad, I want to make sure  
24 that the tool represents the outcome, that this is  
25 why I came to this conclusion. It's not my opinion.



1 It's the evidence analysis.

2 Q. And when you say a good or a bad,  
3 what are you talking about?

4 A. Like you want to give credit for  
5 where they do it the way they're supposed to and  
6 identify where there might be failures. And then  
7 that leads us to the next level, which is why is  
8 this a failure? Why are we not doing what we --  
9 what the industry would expect you to do in this  
10 area, but -- so it's both good and bad.

11 Like at the end of the time, I can  
12 come out of the assessment and say to the client,  
13 "Hey, we're good. You're -- you're doing everything  
14 that you're supposed to do," and -- or I can come  
15 out of the assessment and say, "Hey, there's some  
16 holes here, and I'm not really sure why because I'm  
17 not investigating it, but this is something that  
18 you, as an agency, should take a look at and figure  
19 out what the issue is."

20 Q. You mentioned the word industry.  
21 And is the assessment tool looking  
22 at an industry standard?

23 MR. LAKEY: Object to form.

24 A. Yes, in my opinion, and so the way  
25 that -- I want to be able to defend my work. I want

1 to be able to defend my team's work, and credibility  
2 obviously in our game is very important. And so I  
3 try to be very broad, but I also try to be very  
4 particular.

5 And what I mean by that is -- so  
6 law enforcement is an industry. Doing police work  
7 is an industry. We are professionals. Just like  
8 any other industry, you learn your task, you learn  
9 your skill set, and you do your job.

10 And so in coming up with our  
11 assessment tool, I took things that were industry  
12 standards, such as accreditation standards, or model  
13 policies, or investigative, you know, knowledge,  
14 things that those of us who do these investigations  
15 are trained to do, and made those part of the  
16 assessment tool for which I could put the cases  
17 through and evaluate the good and the bad.

18 Q. (BY MS. KRAMER) Can you give me a  
19 short definition for industry standard?

20 A. Yeah. Well, I mean, the  
21 interesting part is every industry is different.  
22 The law enforcement -- that's actually a great  
23 question, because law enforcement is the only  
24 industry in this country, and not many people know  
25 this, but the only industry in the country that does

1 not have a national set of standards. There's no  
2 book out there.

3 The reason why there's a -- that  
4 law enforcement doesn't have a national set of  
5 standards is not a failure. It's because law  
6 enforcement is the only industry where law guides  
7 what we can do every day. And so, you know, as you  
8 all know, courts issue decisions every day that  
9 affect the way we can do things, how we can stop a  
10 car, how we can search a car, how we can arrest a  
11 person.

12 And so those of us that work in the  
13 industry as, you know, guidance counselors, for lack  
14 of a better term, we're just taking these  
15 industry -- these court cases, CALEA standards,  
16 accreditation standards, model policies, national  
17 organizations like the IACP, and what I did for this  
18 is, you know, kind of took them all and laid them  
19 all on top of each other and said, "Okay, what is  
20 consistent? What can we make, an industry  
21 standard?"

22 So there's no book that you can  
23 buy, because the book doesn't stay viable for long  
24 enough. But those of us that have done this for a  
25 while, you know, you know what you have to do to

1 achieve the end result and, you know, to do what we  
2 call a full, fair, unbiased investigation.

3 Q. The sources that you listed, let's  
4 walk through those.

5 A. Sure.

6 Q. So you mentioned the law.

7 So you're looking at -- in this  
8 context you're looking at Tennessee law.

9 A. Yeah. So obviously this is  
10 Tennessee. So you're going to start with state  
11 statutes. If there's any guidance in the state  
12 statute as to what's supposed to occur, that's the  
13 most important because that's what they're working  
14 under.

15 And then I would go to any  
16 interpretations of Fourth Amendment applications,  
17 search and seizure, through both -- you know,  
18 usually we try to keep it at the state supreme court  
19 level, or some cases are appellate court level  
20 cases. But, you know, when they're changing what we  
21 can do and how we can do it, we've got to be very  
22 cautious that it's not just some judge having a bad  
23 day, but it's actually something that the court is  
24 going to uphold.

25 And then we look around the

1 industry. And around the industry, one of the  
2 things that is -- that are valuable are  
3 accreditation standards, both national and local.  
4 That's a big thing nowadays. You know, basically  
5 they're not going to tell you everything you're  
6 supposed to do, but they're going to have some  
7 standards which the industry believes should be  
8 consistent, if that makes sense. But that's what an  
9 accreditation standard is. It's a bunch of people  
10 got together and said, "Hey, we would like all our  
11 cops to do X., and so we're going to make it a  
12 standard."

13 And then the last one would be  
14 either external research or, more importantly -- and  
15 a lot of times I use Department of Justice  
16 settlement agreements across the country, because  
17 it's pretty clear from settlement agreements that  
18 when the Department of Justice comes in and changes  
19 what a department does, everybody else should pay  
20 attention to what they're doing. It doesn't mean  
21 you have to do it, but at least there's some basis  
22 for it.

23 Q. And did you also collect and review  
24 Johnson City Police Department policies and  
25 procedures?

1           A.           Yes.

2           Q.           Do those policies and procedures go  
3 into your evaluation of the industry standard that  
4 you are going to apply in your assessment?

5           A.           So the answer is yes. And as you  
6 saw in the report, the first thing we're going to do  
7 is assess the policy to make sure it's giving the  
8 members of the department the proper guidance that  
9 they need.

10                   I mean, policies are -- you know,  
11 policies are important, and people don't fully  
12 understand the purpose of policies. And the purpose  
13 of policies is to teach young police officers how to  
14 do the job, right? It's why we require them through  
15 policies.

16                   And so you first evaluate the  
17 policy to make sure that it is up to speed, and then  
18 you -- and then you also, if it's up to -- if it --  
19 if it's up to speed, and I use that those words, if  
20 it's up to speed, it usually means it's already in  
21 line with what we would see in other areas.

22           Q.           Do you recall any instance in which  
23 the JCPD policy that you reviewed was already in  
24 line with industry standards?

25                   MR. LAKEY: Object to form.

1           A.           Yeah.

2                       MR. LAKEY: Sorry. Object to form.

3                       Go ahead, please.

4           A.           You know, the majority of the  
5 criminal investigation policy was -- you know, the  
6 concept of criminal investigation is not a new one.  
7 You know, it just develops over the years with  
8 technology. And so there is a -- there is a finding  
9 in here specific to the policy that there was some  
10 recommendations that I thought could be used to  
11 enhance the policy, but their criminal investigation  
12 policy was kind of a one-on-one policy and, you  
13 know, was enough to make sure a base -- an officer  
14 coming out of the department knew enough about what  
15 they were required to do.

16           Q.           (BY MS. KRAMER) For your assessment  
17 tool, was there any standard that you used in your  
18 assessment tool that was based solely on an existing  
19 JCPD policy?

20           A.           I don't believe so.

21           Q.           In your view, what's the difference  
22 between an industry standard and a best practice?

23           A.           They're pretty much the same. I  
24 don't like the term best practice, because my  
25 question is always, "Whose best practice? Is it

1 your best practice, or can you point to a  
2 consistency of that best practice?"

3 I'm not a big fan when people in  
4 this industry, law enforcement, use the term best  
5 practice, because it could be opinion-based. I want  
6 to -- I want to know where it comes from. Where did  
7 you get it from? So I would say they're consistent,  
8 just not as significant.

9 Q. Would you tell a client, "It's  
10 really important for you to not perform lower than  
11 best practices"?

12 MR. LAKEY: Object to form.

13 A. I would tell a client that you  
14 would not perform below industry standards, because  
15 that would increase your liability.

16 Q. (BY MS. KRAMER) In your assessment  
17 of --

18 MS. KRAMER: Actually, maybe this  
19 is a good time to take a break.

20 Has it been an hour?

21 THE WITNESS: Sure. I could use a  
22 break.

23 MS. KRAMER: Okay. Great. Thank  
24 you. Let's take it -- let's take a --

25 MR. LAKEY: That's always a good



1 cue.

2 COURT REPORTER: Okay. Do you guys  
3 want to go off the record?

4 MS. KRAMER: Let's take -- let's  
5 take ten.

6 VIDEOGRAPHER: Okay. We are now  
7 off the record. The time is 10:44 a.m.  
8 Eastern time.

9 (Off the record at 10:44 a.m.)

10 (On the record at 11:02 a.m.)

11 VIDEOGRAPHER: Okay. We are back  
12 on the record. The time is 11:02 a.m.  
13 Eastern time.

14 MS. KRAMER: I'm going to hand you  
15 another document, Mr. Daigle, that I will  
16 mark as Exhibit 114, and the Bates is  
17 CITY-0066604.

18 (Exhibit 114 marked).

19 BY MS. KRAMER:

20 Q. Sir, have you had a chance to look  
21 at that document?

22 A. Yes, ma'am.

23 Q. Do you recognize this document?

24 A. Yes, ma'am.

25 Q. Did you prepare this document?

1           A.           I was involved in the preparation.  
2       This is my team going back through, trying to  
3       determine what we were going to -- what we were  
4       going to use as assessment points for the purpose of  
5       filling -- making that spreadsheet. This is -- the  
6       first way that we'll do it is we'll kind of gather  
7       information and then kind of start building  
8       assessment points off of something like this into  
9       the document.

10           Q.           So this document was used for the  
11       development of the assessment tool; is that correct?

12           A.           Yes, ma'am.

13           Q.           Let's look at the first heading.  
14       The first is Policy, and it says in parentheses, "to  
15       include the following topics."

16                       Can you describe what policies you  
17       are referring to here?

18           A.           This is not a policy in respect of  
19       a specific policy, but looking at things in policy  
20       that we would expect to find in an investigation.  
21       So we're pulling out assessment points, like you  
22       would expect to see the first responding officer  
23       assess a victim and preserve evidence and crime  
24       scene and locate witnesses. That was what we would  
25       expect to find in a policy, but that -- as an

1 assessment tool, that's where the first questions  
2 come from.

3 Did the officer, you know, assess  
4 the victim. Did the officer secure the crime scene?  
5 Did -- you know, in that area. So it's not a --  
6 it's policy topics, not a policy itself.

7 Q. Understood.

8 And when you say assessment points,  
9 do you mean the assessment point is something that a  
10 police officer either did or did not do?

11 MR. LAKEY: Object to form.

12 A. It's something -- I think the  
13 answer -- your question is -- I'm going to just spin  
14 it another way, which is where we expect to see  
15 these things, did the officer do it or not do it?

16 So I think that's a yes to your  
17 question, but with that clarification.

18 Q. Okay. The assessment point is  
19 where you would expect to see a police officer do  
20 something.

21 A. Do something.

22 Q. And then when you apply the  
23 assessment tool, the answer is yes, no, or --

24 A. Unknown.

25 Q. -- unknown. Okay. Thank you.

1 And do you recall how you developed  
2 this document?

3 A. Like I said to you before, you  
4 know, we're using these industry standards, our own  
5 experience, our own knowledge, you know, and so  
6 that's why the first step is to put together a  
7 document like this, a heading for the spreadsheet,  
8 and basically sit around the table and say, "Okay,  
9 here's what this says. Here's what that says.  
10 Here's what this says," of those items.

11 Because there's a lot of things  
12 that have to be done in an investigation, and not  
13 every one of them is critical to the outcome of the  
14 investigation, but really looking at the reasonable  
15 ones, you know, that would make -- that would either  
16 make or break an investigation are the points that  
17 we're looking for here.

18 Q. Moving down to No. 8 under Policy,  
19 you have role of supervisor.

20 Where are you getting assessment  
21 points pertaining to the role of a supervisor?

22 A. So that would be in the aspect of  
23 supervision in general, failure to supervise, what  
24 we would expect a supervisor to do under their legal  
25 obligation. And that is -- you know, if the policy

1 says the officer should do X, the job of the  
2 supervisor is to make sure that the officers did X.  
3 So that's -- it's not like it's own special  
4 standards. It's basically what it's -- for me, it's  
5 the legal standard of failure to supervise versus  
6 not something that a supervisor needs to do  
7 different than an officer, right? It's just about  
8 that the purpose of a supervisor, as you saw in the  
9 report, is to make sure that the employees do what  
10 they're supposed to do.

11 Q. Understood.

12 No. 9 says procedures for blind  
13 reporting of sexual assault.

14 What does that mean?

15 A. So blind reporting could be where  
16 the victim doesn't come in. It could be multiple  
17 things. It could be where you just get a telephone  
18 call. So you're not dealing -- you're not  
19 interacting with a victim. You're just getting a  
20 story. Then you've got to work on trying to get  
21 them to come in.

22 Sometimes you get what we call  
23 third-party complaints. "I was at a party. I saw  
24 Sarah go into the back room. I heard things I  
25 didn't like." That's not Sarah giving you the

1 complaint.

2 So there's, you know, different --  
3 there's ways that a complaint can come in that would  
4 not involve the victim coming to the department and  
5 telling you a story. And we call those blind  
6 investigations, because you're really -- you've  
7 really got an uphill battle from the beginning  
8 there.

9 Q. Blind reporting is when the initial  
10 complaint about a sexual assault is coming to the  
11 police department not through face-to-face contact.

12 MR. LAKEY: Object to --

13 Q. (BY MS. KRAMER) Is that accurate?

14 MR. LAKEY: Object to form.

15 A. If you add also it could not be  
16 coming from the victim either. It could be a third  
17 party. We call it a third-party complaint. It  
18 could be the parent. It could be -- you know, it  
19 could be many things.

20 Q. (BY MS. KRAMER) Blind reporting  
21 encompasses a report coming from a third party.

22 MR. LAKEY: Object to form.

23 A. It does, yes.

24 Q. (BY MS. KRAMER) And so having this  
25 under the Policy heading means that there are some

1 considerations from a policy standpoint for how to  
2 deal with blind reporting of sexual assault.

3 MR. LAKEY: Object to form.

4 A. I want to see in a policy a  
5 procedure for handling that so that the officer just  
6 can't say, "Well, there's no victim. The victim's  
7 not calling me. So we're not dealing with it." And  
8 that's why we would put it in the policy.

9 Q. (BY MS. KRAMER) Moving up to No. 7,  
10 investigative considerations regarding alcohol and  
11 drug facilitated sexual assault.

12 What does that mean?

13 A. It means that criminal  
14 investigations, in this case specifically sexual  
15 assault investigations that occur with the use of  
16 drugs or alcohol, are going to take -- there's going  
17 to be additional steps that are going to need to be  
18 taken by the investigator specifically as to, you  
19 know, medical treatment and maybe getting a tox  
20 screening, making sure that -- you know, seeing  
21 evidence.

22 When you have alcohol and drugs,  
23 the victim may not remember exactly what happened,  
24 and you've got a little more of an uphill battle to  
25 clarify, through evidence, what actually occurred at

1       that location.

2               Q.           And you have two bullet points  
3       there, evidence collection and forensic examination.

4               And I think you touched on this,  
5       but can you explain more on what you would expect to  
6       see in a policy relating to sex crimes where alcohol  
7       and drugs are present?

8               MR. LAKEY:  Objection.

9               A.           Well, in a lot of these cases,  
10       including alcohol and drug present cases, the  
11       processing of the crime scene is a very important  
12       part of this, because you have a version of -- the  
13       victim is not capable of 100 percent giving the  
14       information.  So you're going to need to, you know,  
15       collect clothing, collect, you know, bed sheets.  
16       You're going to need to send them for forensic  
17       evaluation.

18               If the test kit comes back and, you  
19       know, there's questions, if you don't properly  
20       handle that crime scene, you could lose the evidence  
21       that would either support or negate what occurred.

22               Q.           (BY MS. KRAMER) We mentioned  
23       assessment points earlier.

24               What are the assessment points that  
25       you would describe in connection with processing a



1 crime scene where there's been a sexual assault and  
2 drugs or alcohol are present?

3 A. I don't think it even gets that  
4 detailed. I think it was to the point of all crime  
5 scenes. Was it secured so that it wasn't -- so that  
6 the evidence doesn't get tainted? Did you do a  
7 search warrant? Did you collect evidence? Did you  
8 use -- did you have to do a forensic test? Did you  
9 have to use a blue light? Did you -- any blood  
10 swabs? Any DNA swabs? Fingerprints? You know,  
11 that's Evidence Collection 101, but in the area  
12 of -- and it should not be that way for all cases,  
13 but it's going to be more important in a case where  
14 the victim, male or female, doesn't recall because  
15 of alcohol or drug usage.

16 Q. Moving up to contacting and  
17 interviewing suspects, what type of policies would  
18 you expect to see for contacting and interviewing  
19 suspects?

20 A. Right. Well, I mean, we would  
21 expect just that in a full functioning criminal  
22 investigation that if somebody is making a serious  
23 allegation against somebody that you're going to go  
24 knock on their door and, you know, advise them of  
25 the allegation, give them the right to use their

1 constitutional protections, if they want it. But,  
2 you know, we expect to see attempts to locate anyone  
3 who is alleged to have committed any crime, let  
4 alone a crime of this magnitude.

5 Q. And how soon would you expect that  
6 to happen, according to policy?

7 MR. LAKEY: Object to form.

8 A. I don't know that we would put that  
9 in policy. Sometimes that would be a little bit too  
10 much for policy, because they're -- you know, there  
11 has to be -- every case is different. Every case  
12 has unique situations. I mean, there's probably  
13 some that we haven't even thought of yet because of  
14 the way the world is evolving.

15 So we don't want to really tie down  
16 an officer to say, "You must do it within X hours."  
17 We're just going to say, you know, "Hey, if  
18 you're -- at some point in this criminal  
19 investigation the suspect should be contacted. You  
20 should give them an opportunity to present their --  
21 to present their side of the story."

22 Q. (BY MS. KRAMER) Can you tell me  
23 your understanding of the difference between a  
24 policy and a procedure?

25 A. A misconception. In the old school

1 days as -- unfortunately, those of us that have been  
2 around for old school days, we had a lot of  
3 different manuals that would guide things. We've  
4 gotten away from that nowadays. You know, in the  
5 old school days you would have a policy which would  
6 be a theory on the way you're supposed to do  
7 something. Like we're going -- so let's say we're  
8 going to respect the constitutional rights of  
9 citizens. That's a policy. It's a theory-based  
10 application.

11 A procedure is, "Well, this is how  
12 you're going to make a traffic stop or write a  
13 ticket or do an investigation." In some agencies  
14 over the years in an attempt to -- I think it was  
15 actually to manipulate the litigation system for a  
16 while, would separate policy and procedure because  
17 most attorneys don't know what's the difference  
18 between the two anyway.

19 So those days are over pretty much.  
20 Nowadays we call them General Orders. And a General  
21 Order is just going to have obviously a policy in  
22 it, which is, "Hey, this department respects the  
23 constitutional rights of citizens," or in sexual  
24 assault should say, "This department will fully,  
25 fairly, unbiasedly conduct investigations into

1       allegations of blah."

2                       But -- and then it's going to go on  
3       to identify procedures, things that -- procedures  
4       are things that you have to do or should do,  
5       depending on what the word is. Policy is theory.

6               Q.           So one of your findings in your  
7       report was that JCPD officers often took far too  
8       long to interview a suspect.

9                       Do you remember that finding?

10           A.           Yes. Yes.

11                       MR. LAKEY: Object to form.

12                       THE WITNESS: Sorry.

13                       MR. LAKEY: That's okay.

14           Q.           (BY MS. KRAMER) And you just  
15       explained that you don't recommend a specific number  
16       of hours by which a police officer should go find a  
17       suspect, right?

18           A.           Yeah. I think that would be  
19       unreasonable for anybody to tell an officer working  
20       an investigation that it should be done within X  
21       number. You never -- you never know what situations  
22       you're being faced. It could be a holiday weekend.  
23       Detectives could be -- they could have a homicide  
24       going on at the same time. So we don't do that. We  
25       shouldn't do that in policy, but the philosophy of

1 getting that done should be something that we  
2 address.

3 Q. And you were able to make a finding  
4 that it was not timely, irrespective of whether you  
5 were applying a specific number of hours.

6 MR. LAKEY: Object to form.

7 A. I think my conclusion was actually  
8 not even on the timely side. It was that it wasn't  
9 occurring.

10 I think there's a big difference  
11 between did they do it two months from now or five  
12 months from now or two days, or did they close the  
13 case without ever doing it? That's -- that's, I  
14 think, the -- if I recall correctly -- these object  
15 to form, I'm just not used to in person anymore. I  
16 don't know. I can't -- people are sitting here. I  
17 don't know what to do with that.

18 So -- but I think it comes down to  
19 the fact that I would not scrutinize as to how long  
20 it took them unless it was, you know, something  
21 really egregious. But scrutinizing whether they do  
22 it at all was the -- was what we did in the  
23 investigation.

24 Q. (BY MS. KRAMER) Moving down to  
25 training.

1                   And, again, I want to just go back  
2                   and try to understand what was -- what was the  
3                   purpose for this section of this document?

4                   How are you using this in terms of  
5                   the assessment tool with training specifically?

6                   A.           So this document is kind of like a  
7                   shotgun document. It's kind of like let's put  
8                   everything on the document that we should consider  
9                   to put into the assessment tool, right? Like this  
10                  is using me and my experience and my investigator  
11                  and his experience and the other members of the team  
12                  that were involved to just kind of dump information,  
13                  you know, from policy, to operational knowledge, to  
14                  just that sounds like a good idea.

15                  But, you know, we want to make sure  
16                  that we kind of throw it all in here first and then  
17                  go back through it later and say, "Okay, of all of  
18                  this information, I'm going to select out these as  
19                  assessment points." I mean, you're never going to  
20                  be -- you're never going to have it completely  
21                  perfect, but this is just like phase one of coming  
22                  up with the assessment point document.

23                  Q.           Do you recall if you created this  
24                  with any input from Johnson City?

25                  A.           Well, I did not. Once I start an

1 investigation -- and I am very strict on this.

2 Once -- I'm sorry.

3           Once I start an assessment,  
4 investigation, once I start anything, I don't take  
5 input from anybody. I'm a little bit of a pain in  
6 the butt in that way. This is -- you know,  
7 credibility is too hard to -- so I -- I may go back.  
8 I may need to go back and clarify things. Maybe I  
9 need to make sure that I'm seeing them the way I'm  
10 supposed to be seeing them.

11           For example, I may have an  
12 assessment tool in here, but it may be the law in  
13 the state of Tennessee, that often happens, that's  
14 different. And so obviously that would be a unique  
15 to their area. And so I have to make sure that  
16 that's not the case because, you know, there are  
17 parts of the country that are -- that have different  
18 laws that may go against our national standards or  
19 our industry standards. So it's just clarifying,  
20 but input from the outside doesn't occur.

21           Q.           Did you find anything specific to  
22 the state of Tennessee that was contrary to a  
23 national standard?

24           A.           No. And Tennessee is unique in the  
25 fact that I have a very good working knowledge of

1 Tennessee, solely because I've been working there  
2 for so long. And we wrote the model manual, policy  
3 manual that is used in the state of Tennessee.

4 So -- in 2016. So we're pretty -- this office is  
5 pretty up to speed with what goes on in Tennessee.  
6 But other places in the country, where we might not  
7 have as much experience, we would need to check  
8 things a little differently.

9 Q. Did you see any instances where the  
10 model manual that DLG prepared had been incorporated  
11 by the Johnson City Police Department?

12 A. Not specific to the policies that I  
13 had looked at, which were the policies -- it was a  
14 narrow focus of only looking at policies directly  
15 related to the criminal investigation of sexual  
16 assault. So that's really only -- I only looked at  
17 those policies, and I did not see our language in  
18 there.

19 Q. But DLG does have a model manual  
20 specific to criminal investigations of sexual  
21 assault?

22 A. Not of sexual assaults. We  
23 don't -- we don't have -- no department has a --  
24 unless you've had -- well, I won't say no  
25 department. But unless you've really failed over



1 the years, you might have a specific policy that was  
2 governed through the District Attorney's Office or  
3 through operations. But for the most part when we  
4 do -- when we do policy manuals, we try to keep them  
5 to the overarching criminal investigation, unless  
6 there's some unique issue that has to be addressed  
7 with the topic.

8 Q. Looking in training, there's a  
9 number of bullet points under No. 1. No. 1 says,  
10 "Agency provides annual in-service training in  
11 response to sexual assault to include the  
12 following."

13 What is -- what does it mean to  
14 have an in-service training? Does that just mean in  
15 person?

16 A. Yeah. In the area of law  
17 enforcement, probably other agencies, too,  
18 in-service means like continuing education. That's  
19 what they call their continuing education. So every  
20 year police departments will provide continuing  
21 education. Some required by law or by POST  
22 accreditation, and some just to give the personnel  
23 some skill set enhancement.

24 Q. So in-service is not a reference to  
25 where you are physically when you do the training.

1           A.           It was at one point. Now  
2       it's computer-based, too. So it's just actually  
3       training itself.

4           Q.           Would you expect for training on  
5       response to sexual assault to require any aspect of  
6       in-person training?

7           A.           You know, I think that a lot of  
8       these bullet points dealt with the -- it's written  
9       SA here, because we have states attorneys, but  
10      you've got -- down in Tennessee they have District  
11      Attorneys.

12                      The fact that the District Attorney  
13      had produced a specific protocol, we would probably  
14      want that training to come directly from the  
15      District Attorney's Office, and it would probably be  
16      best done in person so that questions can be  
17      answered and understanding could occur. But there's  
18      no -- this is not the type of training that requires  
19      in-person training.

20           Q.           And correct me if I'm wrong, and  
21      please take a minute to look at this, but my reading  
22      of the words -- of the letters SA here was to be  
23      short for sexual assault.

24           A.           Oh, absolutely. I'm sorry. You  
25      are correct.

1           Q.           Okay. Thank you for clarifying  
2           that.

3           A.           Yes.

4           Q.           And one of the bullet points, this  
5           is the fourth, it says, "Dynamics of scientific  
6           concepts related to SA, counterintuitive behavior,  
7           tonic immobility, and effects of trauma on memory."  
8                        Do you know what that means?

9           A.           Yes.

10          Q.           What does that mean?

11          A.           So in the area of victim-related  
12          crimes, you know, the good thing is the industry has  
13          started to include inter-operational conversations  
14          with psychologists and those who specialize in  
15          victim response on the psychological aspect, you  
16          know, trauma and why someone remembers somebody,  
17          something, but might not remember it the right way.

18                       And so this is -- this is something  
19          that we have started to train officers all over the  
20          country in so that they have a little bit of  
21          understanding more of just the old style, you know,  
22          tell me the facts. But now we're getting into --  
23          you know, not as much with officer officers, general  
24          officers responding to calls for service, but  
25          definitely our investigators who are working sex

1 crimes and juvenile crimes.

2 And there's a very important need  
3 to begin to understand some of the scientific  
4 aspects of the psychological world as it applies to  
5 victim interaction.

6 Q. The last bullet says -- or let's  
7 start with the second to last bullet. It says,  
8 "Impact of officers' attitude towards victim on  
9 investigation outcomes."

10 Can you describe what that means?

11 A. Well, it's kind of similar to the  
12 last bullet point, too, which is, you know, as I  
13 talked about in the report, human beings have  
14 biases. And whether they're explicit or implicit  
15 biases, you know, whether it goes as far as, you  
16 know, sexism and racism in an explicit bias or it's  
17 just an implicit bias that they -- we have to -- we  
18 have to make sure that we're training our officers  
19 to understand their biases and to address their  
20 biases.

21 They're human beings and so, you  
22 know, biases affect attitude towards people and how  
23 they respond to people. And it's something that we  
24 take very seriously, and so we're going to train  
25 them on it.

1 Q. And this specifically references  
2 the impact on investigation outcomes.

3 Do you see that?

4 A. Yes.

5 Q. And what does that refer to?

6 A. Well, if you -- if you don't  
7 believe the victim because of a bias or you don't  
8 believe that what the victim is saying is credible  
9 because of a bias, then you're going to affect the  
10 whole outcome of the investigation. Because if the  
11 investigator doesn't believe the victim, then  
12 they're going to focus on evidence that is -- that's  
13 going to support their biases, and there won't be a  
14 full, fair, and unbiased investigation.

15 Q. In the last bullet point, I just  
16 want to clarify that the use of LE there, is that  
17 short for law enforcement?

18 A. Yes, ma'am.

19 Q. Okay. And you did review Johnson  
20 City Police Department's training in the course of  
21 your assessment, right?

22 A. We were able to review the types of  
23 training that they received, the topics. They were  
24 using an online system called Virtual Academy, which  
25 I think is a Tennessee-based operation and is known

1 to have good training.

2 But the problem is we couldn't get  
3 the actual training to look at because it was in an  
4 online portal. So I would -- you know, they had  
5 training topics which I would expect to see specific  
6 to rape crisis and victim -- I did identify that in  
7 the report as to what types of training that they  
8 received. But how that training was delivered and  
9 by who we weren't able to give an opinion on. We  
10 didn't know whether it was a good training or not  
11 because I didn't -- I didn't assess that.

12 Q. Did you ask for the underlying  
13 training materials?

14 A. We did, and it was -- it was not  
15 the fact that -- this is not a negative to them, but  
16 we really didn't want to get into, you know,  
17 evaluating another company as to whether or not  
18 they're doing things correctly or not. This is what  
19 you need to train your people on. It's your job to  
20 determine whether that's sufficient. It's not my  
21 job. I try to stay -- we're all competitors in this  
22 field and, you know, I don't really want a  
23 credibility issue by having an opportunity to jump  
24 on another competitor and say it's not accurate,  
25 so --

1 Q. And Johnson City did not ask you to  
2 evaluate the quality of the training they were  
3 providing.

4 A. They did not.

5 Q. Did you learn the content of that  
6 training through your interviews with anyone at  
7 JCPD?

8 MR. LAKEY: Object to form.

9 A. Yes. Initially when we do these  
10 assessment tools, we would sit down with the -- in  
11 this case Attorney Sandos, or do it through Zoom at  
12 that point, and say, "Here's" -- like we basically  
13 do it in like a production request. I basically  
14 give them a production request and say, "Listen, we  
15 want all of these cases. We want all of this  
16 training. We want all of this."

17 And then we allow them to respond  
18 to the production request. And then we go through  
19 it, and then we figure out what we still need or  
20 what we didn't get and what we can drill down on.

21 So as part of the request, we would  
22 always ask for training. And then they would give  
23 us -- the department would give us what they had as  
24 training. In this case they gave us, you know, kind  
25 of like this was the topics the officers took over

1 the -- over the course of time that was under  
2 analysis.

3 Q. (BY MS. KRAMER) And you did  
4 interview JCPD officers, correct?

5 A. I did not interview officers. I  
6 interviewed investigators that were -- that were  
7 responsible for investigation. Not -- when I mean  
8 officers, I mean those out on patrol that would be  
9 called for calls of service. I did not interview  
10 the officers.

11 Q. Did you ask any of the  
12 investigators that you interviewed about the content  
13 of the training that they had received with respect  
14 to sex-related crimes?

15 A. I did, but I think it was -- to the  
16 best of my recollection, it was more specifically,  
17 because when you're in that investigative capacity,  
18 you shouldn't be getting just the basics anymore.  
19 You should be getting advanced training. And so we  
20 would ask the investigators and the people what type  
21 of sex-related training they received outside of  
22 what every officer should receive, right? Because  
23 they're specialists. They need to be qualified.

24 And they did testify that they had  
25 gone to training classes and done -- you know, they



1 did tell us -- I hate to use the word testified.  
2 They did tell us that they had provided -- they had  
3 had additional training programs.

4 Q. Did you receive any documentation  
5 of the advanced training that these investigators  
6 described to you?

7 MR. LAKEY: Object to form.

8 A. Not to my recollection.

9 Q. (BY MS. KRAMER) In terms of the  
10 advanced training, what does that look like? I  
11 mean, is it just that the content is different or  
12 would it be, for example, you're more likely to go  
13 to a conference or to have an in-person session or  
14 do role play?

15 MR. LAKEY: Object to the form.

16 A. It could be all of those things.  
17 You know, when you're getting into specialties and  
18 investigations, you start to go to training classes  
19 that enhance your specialties.

20 For example, my specialty was  
21 homicide. So you go to a lot of fingerprint and DNA  
22 class, Toolmark class, right?

23 If your specialty is sex  
24 investigations or juvenile investigations, you're  
25 going to probably go to, you know, external and

1 you're going to go to external training programs  
2 probably taught by psychologists or victim advocates  
3 and legal in those areas.

4 And you also can receive training  
5 internal, too. When you're working in a unit, you  
6 know, you get trained by the people that you come up  
7 with. So when you join the unit, you might not know  
8 anything about how to do this type of investigation.  
9 But as you're a rookie investigator, you start to  
10 work with senior investigators and you get knowledge  
11 and a skill set from them, too.

12 Q. (BY MS. KRAMER) Do you remember the  
13 names of the investigators that you interviewed?

14 A. So there was a Deborah Dunn, I  
15 believe was one. And then I did -- I knew this was  
16 one of the questions that was going to be asked,  
17 because it was asked in the last one. So I did  
18 write the names down somewhere, if I can find them  
19 myself.

20 Q. I can remind you, but just to start  
21 so we're more specific on these questions, did  
22 Investigator Dunn tell you that she had advanced  
23 training on investigating sex-related crimes?

24 A. I don't recall. I believe so.  
25 When I -- just for knowledge, when I interview --

1 this is not an investigation. This is an  
2 assessment. And the big difference between the two  
3 is that if it was an investigation, we'd be on the  
4 record, right? We'd be compelling them to answer  
5 questions. We'd be asking them questions.

6 Because it is an assessment, I want  
7 them to talk freely. And, unfortunately, sometimes  
8 when you turn the recorder on, people don't talk  
9 freely. So we really just have general  
10 conversations and then try to memorialize them to  
11 the best we can, as quick as we can, in the report  
12 to be accurate.

13 So I would have expected -- again,  
14 this is over two years ago now, and just getting  
15 worse, but I would have expected some of that based  
16 on her years in that unit and having done this type  
17 of investigation for a period of time. I would  
18 expect that she probably had some training, but I  
19 don't recall as we sit here.

20 Q. As we sit here, do you recall if  
21 Detective Carol Lowe had any advanced training on  
22 investigation of sex-related crimes?

23 MR. LAKEY: Object to form.

24 A. Carol was interesting because she  
25 had a background in -- whether it was her education,

1 background, I think it was sociology and was really  
2 into the psychological and physiological aspects of  
3 victim trauma. And so I know that she came to the  
4 table with external knowledge from her -- you know,  
5 from her own continuing education, and I would  
6 expect that if she's in that situation.

7 One thing I know about her, she was  
8 not in that role for a long time. So I don't know  
9 if it -- you know, if in time she was doing sex  
10 assault cases that she did get to go to training or  
11 not, but she did bring to the table some victim  
12 advocacy as part of her history.

13 MS. KRAMER: Okay. I'm going to  
14 mark our next exhibit. This will be 115.

15 (Exhibit 115 marked).

16 Q. (BY MS. KRAMER) I'll give you some  
17 time to look through this document, and some of the  
18 pages are upside down. That's how it was produced  
19 to us. But I don't think we'll -- since this is  
20 your handwriting, I'm hoping you can talk us through  
21 it.

22 A. Good luck.

23 MS. KRAMER: And for the record,  
24 the Bates on this document is CITY-0066641.

25 MR. LAKEY: Through 655.

1 Q. (BY MS. KRAMER) Do you recognize  
2 this document, Mr. Daigle?

3 A. I do.

4 Q. Is this your handwriting?

5 A. It is, yes.

6 Q. Are these notes that you took in  
7 connection with your assessment done for Johnson  
8 City?

9 A. Notes. Scribbling. All the above.

10 Q. So I'm hoping you can, looking at  
11 these notes, help me determine which of the  
12 investigators that you interviewed --

13 A. Okay.

14 Q. -- who had advanced training for  
15 sex-related investigations that we discussed.

16 So I see on Bates ending 647, at  
17 the top that looks to me like Lieutenant Dunn.

18 Do you see that?

19 A. Yep.

20 Q. And then about three lines down I  
21 see Kevin Peters.

22 Do you see that?

23 A. Yep.

24 Q. I'm not sure if anyone else is on  
25 this specific page.

1 But looking back at these notes,  
2 does this refresh your recollection as to the  
3 advanced training that may have been given for  
4 Lieutenant Dunn?

5 A. It looks like she did make some  
6 comments to me that I wrote down that there was --  
7 you know, in her 24 years at Johnson City there was  
8 no specific training in child abuse except the  
9 academy. Tons of training on child sexual abuse.  
10 So she was -- the difference between just child  
11 abuse versus child sexual abuse. Her specialty was  
12 child sexual abuse. So she had received a lot of  
13 training on that.

14 Q. And let me -- let me -- sorry to  
15 interrupt, but I mentioned Kevin Peters' name is  
16 here.

17 But your understanding is that this  
18 set of notes is with respect to Investigator Dunn,  
19 and that the note that says Kevin Peters is that he  
20 was her lieutenant at that time, right?

21 MR. LAKEY: Object to form.

22 A. Right.

23 THE WITNESS: Sorry.

24 MR. LAKEY: It's okay.

25 A. From 2004 to 2020.

1 Q. (BY MS. KRAMER) Okay. And is your  
2 recollection that all of these notes are from your  
3 interview with Investigator Dunn?

4 A. All of these notes --

5 Q. On this page ending in 647.

6 A. Yes. It looks like it goes --  
7 because there's a two on the next page. So it looks  
8 like the next two pages, 647 and 648, are from Dunn  
9 .

10 Q. About halfway through the page  
11 there is -- you have two arrows that are sort of  
12 called out to the right side of the page. One says,  
13 "Shredded," and the other one says,  
14 "Non-prosecution."

15 Do you see that?

16 A. Uh-huh.

17 Q. Do you remember why you took those  
18 notes?

19 A. Yeah, because I was -- I was -- I  
20 learned in here that -- so at this point we're in  
21 December 8th, 2022. So we had already looked at and  
22 assessed all the documents and was finding that  
23 we're missing a lot of stuff. So when we went down  
24 to Johnson City in early December 2022, part of our  
25 discussion was, "Well, where is everything?" Like,

1 you know, because as you can see in the notes there,  
2 I'm asking her, you know, "What would you expect to  
3 see in a report? You know, a statement from a  
4 victim, written. A statement from a nurse,  
5 specifically the triage nurse, and information about  
6 the investigator would contact the victim."

7 And that's when I learned that  
8 the -- outside of the system that was using for  
9 record management, that the detectives would  
10 maintain their own files and that -- what would --  
11 at the end of the investigation, which I understood  
12 that. As a detective, you maintain your own file  
13 and you keep all of your notes and all of your  
14 evidence together. And then, you know, you move  
15 that case forward to prosecution.

16 At the end of that is when I  
17 learned that one of the -- one of the interviews  
18 that said that the detectives would either scan it  
19 and put it into the system, if they thought the case  
20 was going somewhere, or they would shred it if it  
21 was -- if they didn't think there was any  
22 prosecution for it. And obviously that was -- that  
23 was not good in my eyes. I was concerned about  
24 that, which is why you got arrows.

25 Q. What -- help me understand what it



1 means by not -- a case not going anywhere.

2 Does that just mean the officer,  
3 the investigator, doesn't have confidence that it  
4 will be prosecuted?

5 MR. LAKEY: Object to form.

6 A. I would have to agree with your  
7 assumption. I don't know the answer to that. I  
8 took it to mean, just as you stated, that somewhere  
9 along the way, the investigator didn't think the  
10 case had the ability to be prosecuted or was going  
11 to be prosecuted. And there could be multiple  
12 reasons why that was the case, but that was my  
13 assumption on that.

14 You know, it depends. It depends  
15 by investigator, too, right? What each investigator  
16 assumes, I can't say. But the question that -- the  
17 only thing that concerned me was when I'm looking  
18 for data, looking for evidence, victim statements,  
19 other things, and there is none.

20 The question is, "Well, we shred  
21 it." So I say, "Okay. Well, you know, why? Why  
22 would we do that? Why wouldn't we just put it back  
23 in the report records room or why wouldn't we just  
24 scan it into the system?" And they said, "Well, it  
25 wasn't -- if it wasn't going anywhere, then it

1 wouldn't -- we wouldn't do that." And I was like,  
2 "Well, that's obviously a concern. That's a  
3 problem."

4 Q. (BY MS. KRAMER) Why is it important  
5 to maintain case records even for a case that the  
6 investigator does not believe is going anywhere?

7 MR. LAKEY: Object to form.

8 A. Well, I mean, you never know when  
9 scrutiny is going to come. And it can be scrutiny  
10 in something like we're doing here, or it could just  
11 be scrutiny where, yeah, maybe a case you had didn't  
12 have enough. And sometimes it happens, right?  
13 There's not enough to prosecute or the prosecutor  
14 doesn't want to prosecute it.

15 But that doesn't mean that later  
16 down the road, this individual goes to another  
17 state, another location, and you're getting a call  
18 from an investigator saying, "Hey, we're  
19 investigating so and so. What have you got on  
20 them?" Well, if you don't have it anymore, then you  
21 don't have it anymore. And so, you know, I think in  
22 the world of what we do, it is important for us to  
23 maintain our files and our documentations for  
24 scrutiny, for lawsuits, for future for criminal  
25 investigations. You never know.

1 Q. (BY MS. KRAMER) And so one of the  
2 reasons that you just described is because someone  
3 may be a repeat offender; is that correct?

4 MR. LAKEY: Object to form.

5 A. Possible.

6 Q. (BY MS. KRAMER) And so can you  
7 explain more why it would be relevant to be able to  
8 look back at a previous case file and need that case  
9 file to be complete?

10 MR. LAKEY: Object to form.

11 A. Other than my own experience, the  
12 only advice I can give to this is I did -- I did,  
13 you know, cold case homicide, which involved serial  
14 killers. And when you're doing that type of  
15 investigation, you know, there's a lot of places  
16 where the case -- an individual may have done an act  
17 and it didn't get -- it didn't get investigated  
18 fully or completely or properly, and it was just not  
19 enough for prosecution.

20 But when you're starting to build  
21 that up, you build that up as a history of where  
22 this guy or gal was, what they were doing, and all  
23 of that becomes very important, you know. And when  
24 we were doing cold case homicides, you know, it was  
25 individuals, they get in their car and they travel.

1 And they leave victims all over the country. And  
2 we've seen that from some of the -- you know, the  
3 significant, you know, serial killers we've had in  
4 history. So it's just -- it's just having that  
5 information available.

6 Q. (BY MS. KRAMER) When you asked why  
7 it was -- I'm trying to remember.

8 MS. KRAMER: Can we go back, Jeff,  
9 to Mr. Daigle's answer to my last question?

10 COURT REPORTER: Which answer?

11 MS. KRAMER: To my last question,  
12 where part of his response was, "I asked the  
13 investigators why they would shred certain  
14 documents."

15 COURT REPORTER: Let's see. It's  
16 not just this latest answer he did? It's  
17 before that?

18 MS. KRAMER: Right. One before.  
19 Correct.

20 COURT REPORTER: Let's see.

21 Well, I mean, you know, when  
22 scrutiny is -- you never know when scrutiny  
23 is going to come. It can be scrutiny in  
24 something like we're doing here or it could  
25 just be scrutiny where, yeah, maybe a case

1           you didn't have enough and sometimes it just  
2           happens, right?

3                     Is that the answer you want?

4           MS. KRAMER:   No.   One before that.

5           COURT REPORTER:   Okay.   Let's see.

6                     Help me understand what it means by  
7           a case not going anywhere.   Does that just  
8           mean the officer, the investigator, doesn't  
9           have confidence that it will be prosecuted?

10                    The answer to that one?

11          MS. KRAMER:   Yes.

12          COURT REPORTER:   Okay.

13                    I would have to agree with your  
14          assumption.   I don't know the answer to  
15          that.   And I took it to mean, just as you  
16          stated, that somewhere along the way the  
17          investigator didn't think the case had the  
18          ability to be prosecuted or was going to be  
19          prosecuted.   And there could be multiple  
20          reasons why that was the case, but that was  
21          my assumption on that.   You know, it  
22          depends.   It depends -- let's see -- on the  
23          investigator, too, right?   What each  
24          investigator assumes, I can't say.

25                    But the question -- the only thing

1           that concerned me was when I'm looking for  
2           data, I'm looking for evidence, victim  
3           statements, other things, and there is none.  
4           And the question is, "Well, we shred it?"  
5           So, "Okay. Well, you know, why? Why would  
6           we do that? Why wouldn't we just put it  
7           back in the report records room or why  
8           wouldn't we just scan it into the system?  
9           And they said, "Well, if it wasn't -- if it  
10          wasn't going anywhere, then we wouldn't do  
11          that." And I was like, "Well, that's  
12          obviously a concern. That's a problem."

13                       MS. KRAMER: Thank you.

14           Q.           (BY MS. KRAMER) So what I was  
15          trying to understand there, and I didn't know if you  
16          had answered it before, is whether you got an  
17          explanation for the shredding.

18                       You just described in that answer,  
19          "Why not put it back in the records room? Why not  
20          just scan it?"

21                       Did you ever get an answer to that  
22          question from the investigators that you  
23          interviewed?

24           A.           Like I said, my understanding was  
25          they shredded it because the case wasn't going

1 anywhere. That's what they said. There was no --  
2 there was no prosecution or didn't -- it wasn't  
3 going to go anywhere. So they would just shred it.  
4 It was the way they did it in the office.

5 Q. Did you ask whether it was  
6 difficult to shred -- or sorry -- difficult to scan  
7 a document?

8 MR. LAKEY: Object to form.

9 A. No. I just took their answer.  
10 They're not scanning it. They're not saving it.  
11 They're shredding it. That obviously is a  
12 challenge. But I didn't go any -- I didn't dive  
13 down a little further into it.

14 Q. (BY MS. KRAMER) They didn't say,  
15 "It takes too long to scan a document. That's why I  
16 don't want to do it."

17 MR. LAKEY: Object to form.

18 A. I don't recall that.

19 Q. (BY MS. KRAMER) So I think you  
20 noted that the conversation with Investigator Dunn,  
21 these notes continue on to the second page.

22 Is that your understanding, that  
23 the document ending 648 is a continuation of your  
24 notes of your conversation with Investigator Dunn?

25 A. Yes, ma'am.

1           Q.           Is it possible for you to read,  
2 just from the top, if you can decipher your  
3 handwriting? And if you can't --

4           A.           Hopefully it's not as bad as the  
5 read back of my answer, which makes me -- all right.

6                       So to close sergeant -- or to close  
7 sergeant review, they can kick back unfounded, did  
8 not happen, no crime occurred, victim says -- put  
9 the word opinion. Exceptional clearances. Victim  
10 did not wish -- did not wish -- not cooperate in  
11 prosecution. With applicable prosecution, identify  
12 suspect specifically. Trained. Last line,  
13 document. Manipulate ADA. Prosecution declined.  
14 Already been -- I have no idea. I have no idea.  
15 Cannot be TIBRS.

16           Q.           Okay. Let's stop there for a  
17 minute, please.

18                       Do you recall generally what you  
19 were discussing in this interview?

20           A.           Yes. Something unique to Tennessee  
21 is obviously their TIBRS system, and one of the  
22 things that I was trying to get an understanding of  
23 is how you can close out cases. Because different  
24 parts of the country, different areas, there are  
25 different standards in how an investigator is



1 allowed to close a case. You just don't get to  
2 close it when you want to. There has to be -- there  
3 has to be a reason to close it, and that reason has  
4 to be well identified.

5 So in this situation I was trying  
6 to understand a little bit more of the clearance  
7 that they use. The closure that they use in TIBRS  
8 is called exceptional clearances.

9 And I was just asking her to kind  
10 of walk me through that. This, what's written  
11 after, is not going to be a good example of what the  
12 outcome is. But it's just my first attempts to  
13 understand this.

14 Q. Do you know what you were referring  
15 to when you wrote, "Manipulate ADA"?

16 A. So what I was referring to there  
17 was a conversation. I do remember this part because  
18 I wrote it in the report, which is investigators can  
19 have conversations with the prosecutor. Those  
20 conversations aren't recorded. So you don't have  
21 any idea what the investigator is saying to the  
22 prosecutor.

23 And I think that's both dangerous  
24 for the investigator and for the prosecutor, because  
25 there's no documentation. Because if I'm calling

1 you as the prosecutor and saying, "Hey, I got a  
2 case. It's not going anywhere. I want to close it.  
3 Will you say no prosecution, so I can close it?"

4 The prosecutor saying, "Okay, tell  
5 me the story." And I tell you the story. Well, it  
6 doesn't mean that -- you know, I would hope and, as  
7 I put in the report, I would believe in that and  
8 hope that the investigator would follow their oath  
9 of office and tell the truth.

10 But just like anything, you can  
11 explain things -- you can explain one thing multiple  
12 different ways. And it really gets into, you know,  
13 the game of playing telephone, you know. And so,  
14 for me, the concern was, and I wrote down there, you  
15 know, you can manipulate the process. You can --  
16 you can strengthen one thing versus another in order  
17 to get the prosecutor to say, "Okay, close it. No  
18 prosecution."

19 That's not done that way in other  
20 parts of the country because that could happen to  
21 prevent manipulation.

22 Q. Are you aware of any other police  
23 departments where the communication that you  
24 described occurs between the investigator and the  
25 ADA and there's no record of the conversation?

1           A.           Oh, yeah. It happens all the time.  
2 I mean, it happens all over the country.  
3 Investigators and prosecutors work closely with each  
4 other. And you often call the prosecutor to say,  
5 "Hey, this is what I've got to do. What do you  
6 think," or that way. So that often happens.

7                       But we're -- the industry has tried  
8 to crack down -- because we want our investigators  
9 to talk to the prosecutors. We want the prosecutor  
10 to give them guidance because, in the end, the  
11 prosecutor has got to prosecute the case. So the  
12 more guidance that the prosecutor has, the better it  
13 is.

14                      But the question at the end is when  
15 you go to close the case because of -- and you  
16 allege that you're closing the case because of a  
17 lack of prosecution. Well, that -- there has to be  
18 some documentation for that, or there should be some  
19 documentation for that.

20                      So, for example, in some parts of  
21 the country, like what we do here, is you have to  
22 submit an affidavit to the prosecutor with all of  
23 the facts, and then the prosecutor will review it  
24 and sign off on it and say, "Not enough." Good.  
25 But at least everybody knows there's a record of

1 that. Everybody -- it protects the investigator if  
2 somebody turns around and sues them for failure to  
3 do a good investigation, and it protects the  
4 prosecutor in case somebody says they weren't doing  
5 their job.

6 Q. So, in other words, it's not the  
7 unrecorded conversations that is of concern; it's a  
8 lack of documentation when the rationale for closing  
9 a case is lack of prosecution, but there isn't  
10 documentation for that reason, for example, the  
11 affidavit that you described.

12 MR. LAKEY: Objection to form.

13 A. Yeah. I mean, I would agree with  
14 my -- my analysis is specific to supporting closure.

15 Q. (BY MS. KRAMER) Understood.

16 And that closure should be  
17 documented, correct?

18 MR. LAKEY: Objection to form.

19 A. My opinion, it should be  
20 documented. I mean, I'm sure there may be others  
21 that don't agree with, but I wouldn't want to put my  
22 investigators in that -- in that situation of if  
23 somebody turned around and sued them that they  
24 didn't have the proper documentation to protect  
25 them.

Q. (BY MS. KRAMER) And you also described the verbal communication about the likelihood of prosecution between the investigator and the ADA. And you said explanations can be -- and you kind of paused.

Can you explain what you were getting at there?

MR. LAKEY: Objection to form.

A. Yeah. I was just trying to figure out how to best talk about human nature. I mean, if I want to tell you a story, I can tell you the story in multiple different ways. And if I'm really good at it, I can tell you a story which can manipulate the way you perceive the information that I'm giving to you. And so if I've got a case and it's a -- it's just a case that's dragging, I can't get rid of it, there's probably a benefit for me to get the prosecutor to say, "You know, listen, it's not going anywhere, and so just get rid of it," right?

I just don't -- you know, I don't -- I don't think that it's -- I don't think it could be identified as much as ill will or ill intent as it is, you know, just human nature, right, on how you tell -- how you tell stories.

Q. (BY MS. KRAMER) Would that human

1 nature include bias?

2 MR. LAKEY: Objection to form.

3 A. It could.

4 Q. (BY MS. KRAMER) I see on the  
5 document -- again, we are still on CITY-0066648.

6 About three quarters of the way  
7 down, I see your note of a non-prosecution form,  
8 written statement.

9 Do you see that?

10 A. Yes.

11 Q. Do you know what you're referring  
12 to there?

13 MR. LAKEY: Object to form.

14 A. Yes. So as I was trying to work my  
15 way through, one of the things that is truly a  
16 challenge is where victims decide that they do not  
17 want to prosecute their offender. And I know to  
18 most people looking at it from the outside, people  
19 will be like, "Well, how is that possible?" It is  
20 possible. It's -- you know, being a victim has  
21 trauma. And we live in a society that I think  
22 victimizes its victims. So, there are times where a  
23 victim will decide, "I just don't want to do this.  
24 I don't want to look at my offender or I don't want  
25 to -- I just want to move on with my life and don't

1 want to go through the next ten years in the  
2 criminal justice system."

3 So there are mechanisms to do that,  
4 right? One of the mechanisms is what they call a  
5 non-prosecution form. It's where the victim can  
6 sign the form saying they do not want to prosecute,  
7 right?

8 What I'm looking for here is that I  
9 agree that I expect to find harassment -- sexual  
10 assault cases where a victim has chosen just not to  
11 be involved. It's very normal. But what is the  
12 department doing to protect itself in that regard?

13 You know, because, unfortunately,  
14 victims who at one point say, "I don't want to  
15 prosecute," then come back later and say, "Well,  
16 wait. I did want to prosecute it." You know, we're  
17 better than this in the industry now. So if we're  
18 going to even consider not prosecuting, I'm going to  
19 take a written statement from the victim or have the  
20 victim sign a non-prosecution form and then go to  
21 the prosecutor and say, "Hey, here's what I got.  
22 Here's what happened. Here's the form they signed.  
23 What do you want to do about it? Do you want me to  
24 drop -- do you want to drop the case?"

25 And then when somebody comes back

1 later and challenges it, at least there's some  
2 evidence that it wasn't the -- it wasn't the  
3 incompetence of the investigator. It was something  
4 that was clearly a decision made by the victim.

5 Q. (BY MS. KRAMER) Do you know if JCPD  
6 used a non-prosecution form?

7 A. JCPD had a non-prosecution form and  
8 did not use it often. I did find cases where a  
9 non-prosecution form was signed, but this is -- I  
10 was getting into having a discussion with her about  
11 the non-prosecution form and like, "Hey, why? Why  
12 don't we see this used more?" And it was really not  
13 part of -- some investigators knew about it, and  
14 some investigators didn't know about it.

15 I was really trying to work off of,  
16 "Why wasn't this -- if the victim has chosen not to  
17 prosecute and that victim wants that decision, why  
18 didn't -- why don't we have this form? Why didn't  
19 we just sign it?" And sometimes it's because they  
20 couldn't find the victim, or they didn't know where  
21 the victim was, or the victim wouldn't talk to them.  
22 That's fair. But you've got to do the work. You  
23 have to -- you have to protect yourself in that  
24 regard.

25 Q. (BY MS. KRAMER) So JCPD has the



1 non-prosecution form. You find that, in practice,  
2 it is not being used regularly.

3 And did you attribute that to  
4 anything?

5 MR. LAKEY: Objection to form.

6 A. Well, I think what I said is I was  
7 asking questions as to why. Why wasn't it be using  
8 regularly? And, you know, the information that I  
9 got is that some people didn't know, didn't -- it  
10 just wasn't part of the practice. To some people it  
11 was, and to some people it wasn't.

12 And, you know, I can't dig down any  
13 more than that, which is -- I would think that that  
14 would be maybe not the investigator's  
15 responsibility, but definitely the supervisor's  
16 responsibility to make sure that that was done  
17 before signing off on the case, but they had the  
18 means. It just was not being used regularly.

19 Q. (BY MS. KRAMER) Did you see any  
20 training materials that discussed use of a  
21 non-prosecution form?

22 A. No.

23 Q. So if we turn the page, this is  
24 Bates 0066649. At the top here, I see the name  
25 Kevin Peters, and the date 1/18/2022.

1 Do you see that, Mr. Daigle?

2 A. Yes, ma'am.

3 Q. Are these your notes from your  
4 interview with Kevin Peters?

5 A. Yes.

6 Q. To the right, it looks like it says  
7 lieutenant.

8 Do you know what name that is?

9 A. I do not. I do not. Sorry.

10 Q. And then underneath Kevin Peters'  
11 name, I see 32 years. It looks like investigate '94  
12 to 2002, 2007 to 2016, sergeant. 2016 to 2022,  
13 lieutenant captain.

14 Is that right?

15 A. Yes.

16 Q. Okay.

17 A. Spelled incorrectly.

18 Q. And then below, can you decipher  
19 what your notes say there?

20 A. So it says training, evidence,  
21 tech, every year, six months to one year.

22 So I was probably reviewing  
23 training that was given to the members of his unit  
24 or -- and he said that evidence techs get -- or the  
25 individuals that are going to go out and collect

1 evidence get training on a yearly basis on evidence  
2 collection. And then I don't know what the six  
3 month to a year means.

4 Two squads. And special victim  
5 squad on day shift means the investigative unit  
6 worked with two squads of officers. Usually a squad  
7 is a group of officers with six to eight. I think  
8 they had days and evenings, but then they also had a  
9 special victim squad. That would be an investigator  
10 specifically assigned to victim crimes like sexual  
11 assault.

12 Interview panel, two years, I think  
13 this was -- if I recall correctly, you had to have  
14 two years on the department in order to become an  
15 investigator. You had to go through an interview  
16 panel to become an investigator. Not a ton of  
17 training, and specifically not a ton of training on  
18 child-related crimes.

19 Investigators are carrying about 30  
20 cases a month, that there was not a protocol before  
21 the recent one. And what we're speaking of there is  
22 the D.A.'s protocol that was issued.

23 There I talked to him about his  
24 case file management. And what I mean by that is  
25 investigators are OCD issue people, and that means

1 we have to -- they have to have structure. And so a  
2 lot of effort in investigations is spent on tracking  
3 a file. They just can't go away. It has to be  
4 clean. It has to be completely followed.

5 So let's say, you know, today a  
6 case comes in. I'm next up on the list. I get the  
7 case assigned to me. It goes into the tracking  
8 software as assigned to me.

9 And then what I took from this one  
10 is that the tracking software is going to require  
11 updates. And usually what was normal, as they did  
12 here, is a 28 day initial. So like every month you  
13 have to provide an update into the system as to what  
14 you're doing on the case. You just can't -- these  
15 cases just can't sit. You have to investigate them.

16 Q. Do you know what the tracking  
17 software was that JCPD used at this time?

18 A. I don't know if it was involved in  
19 the Watson system or something separate. I don't  
20 know. I don't recall.

21 Everything that they do in the case  
22 is supposed to be in the timeline. And what I'm  
23 getting into in this area is, as you started  
24 going -- as you've gone through the cases, you'll  
25 see that an officer comes in and puts in a summary,

1 you know, "I called the victim. I called the  
2 witness. I called this."

3 Well, that's done for the purposes  
4 of maintaining the tracking. So my gut would tell  
5 me it's probably in the Watson system that they're  
6 supposed to keep updates. But because I didn't see  
7 that as consistent throughout the investigations, I  
8 was asking, "Okay, tell me about what you expect  
9 from an investigator."

10 MR. LAKEY: And I'm not trying  
11 to --

12 THE WITNESS: Sure.

13 MR. LAKEY: I am going to just --  
14 it's not an objection to the form,  
15 Ms. Kramer, because your question was, "Do  
16 you know what it says?" But the witness is  
17 giving just kind of long, uninterrupted  
18 testimony about all the notes.

19 And so I will object as  
20 non-responsive, and some of it mixed with  
21 improper opinion testimony, but that's just  
22 for the record.

23 Q. (BY MS. KRAMER) And you are -- in  
24 responding to my questions, you're speaking from  
25 your memory of this conversation with Mr. Peters; is

1 that correct?

2 A. Yes, ma'am.

3 Q. And so you just described asking  
4 Mr. Peters a question about the maintenance of his  
5 case file and how frequently it was updated.

6 Do you remember how he responded to  
7 that question?

8 MR. LAKEY: Object to form.

9 A. From the notes here, that basically  
10 the timelines are maintained 28 days. Extensions  
11 have to be given by the supervisor. It was -- in  
12 the normal world of investigations, there's a very,  
13 very detailed process that occurs to keep the  
14 timeline of a case moving forward.

15 Q. (BY MS. KRAMER) Would it be -- just  
16 in your experience understanding some of these  
17 tracking softwares, is it -- would you see in the  
18 data that an extension was granted to these imposed  
19 28-day timelines?

20 A. I don't know. There's so many  
21 different softwares out there. If I was using a  
22 software, I would want a software that showed that  
23 right there.

24 And I'll give you -- in the  
25 Connecticut State Police, every 30 days we had to

1 submit a summary report, a supplemental report  
2 saying what we've done in the case. And it may just  
3 be waiting for evidence back from forensics, nothing  
4 else to do. But there was something in the file  
5 that documented what occurred.

6 For example, what if I get  
7 transferred tomorrow, and now a new investigator  
8 comes in? All they've got to do is open the case  
9 file, and they know everything that has been done  
10 and they just pick up where I left off. And that's  
11 why we do this, because there's a lot of movement.  
12 There's a lot of other things that get in the way.

13 Q. When you're logging into a tracking  
14 software -- or what would you call it? What do you  
15 call it, tracking software?

16 A. I think that's the safest thing.

17 Q. Okay. When you're logging in, do  
18 you -- you log in as Mr. Daigle and you -- you could  
19 access any case.

20 Is that what your experience is  
21 with this software?

22 MR. LAKEY: Object to form.

23 A. So with case management software,  
24 depending on your level in the department, it also  
25 has your level of access. So if you're -- if you're

1 an officer or an investigator, you log into your  
2 cases. If you're the supervisor, you log into the  
3 cases of the people that you supervise, and all the  
4 way up the food chain. So that's usually the way  
5 these things work.

6 Q. (BY MS. KRAMER) All right. Let's  
7 move on.

8 THE WITNESS: While you're doing  
9 that, can we take five minutes?

10 MS. KRAMER: Absolutely, yes.

11 MR. LAKEY: My hero.

12 COURT REPORTER: Going off the  
13 record?

14 THE WITNESS: Yes, please, if  
15 that's okay.

16 COURT REPORTER: Okay.

17 VIDEOGRAPHER: We are now off the  
18 record. The time is 12:15 p.m. Eastern  
19 time.

20 (Off the record at 12:15 p.m.)

21 (On the record at 12:25 p.m.)

22 VIDEOGRAPHER: Okay. We are now  
23 back on the record. The time is 12:25 p.m.  
24 Eastern time.  
25



1 BY MS. KRAMER:

2 Q. Mr. Daigle, if I could have you  
3 continue looking at Exhibit 115, and I'm going to  
4 direct your attention to the page with Bates ending  
5 652.

6 A. Okay.

7 Q. Do you recall a telephone  
8 conversation with D.A. Steve Finney on or about  
9 December 9th?

10 A. This was an actual in-person  
11 discussion. I went to his office.

12 Q. An in-person discussion?

13 A. Yes.

14 Q. Okay. Thank you.

15 So you recall an in-person meeting  
16 with D.A. Steve Finney on December 9th; is that  
17 correct?

18 A. Yes, ma'am.

19 Q. And these are the notes that you  
20 took during that meeting?

21 A. Yeah. These are some of my  
22 thoughts that I was going through with him. You  
23 know, the purpose of the meeting was to get his  
24 thoughts on -- he was aware that I was doing an  
25 assessment. He was new to the -- as the District

1 Attorney. He had made some changes in the District  
2 Attorney's Office. He had issued a new protocol for  
3 these investigations, and so it was just making sure  
4 that I -- I just wanted to touch base with him.

5 Q. You asked for this meeting?

6 A. I did.

7 Q. And do you know what year this is?

8 A. This is '22, 2022.

9 Q. Do you remember if D.A. Finney was  
10 taking notes during this meeting?

11 A. I don't think so. I don't recall.  
12 I don't think so, though.

13 Q. Where did the meeting take place?

14 A. In his office.

15 Q. Did you ever speak to the previous  
16 D.A.?

17 A. No.

18 Q. So looking at your notes here, the  
19 first line reads, "New protocol 11/21." It looks  
20 like that's 2022.

21 Do you have any -- do you have any  
22 recollection on what this is referencing?

23 A. Yeah. It is '22. That was the  
24 D.A.'s protocol that was issued in November of 2022.

25 Q. And it looks like these are a

1 series of questions that you asked D.A. Finney; is  
2 that correct?

3 A. I was just -- yeah, just kind of my  
4 thoughts as I was going through here. Like I said,  
5 I don't take notes verbatim. I'm just kind of  
6 scratching so I don't forget the conversation.

7 Q. One of the questions on here is,  
8 "Was there a protocol before this one?"

9 Did you get an answer that you  
10 recall from D.A. Finney at this meeting?

11 MR. LAKEY: Objection to form.

12 A. My recollection is that, obviously,  
13 he had just taken over. So he doesn't -- he  
14 didn't -- the reason why there was a new one is  
15 because there wasn't one that he liked or that he  
16 had when he took over.

17 Q. (BY MS. KRAMER) You were never  
18 provided with a protocol from the City that predated  
19 this December -- or sorry -- November 2022 protocol  
20 that's referred to here; is that correct?

21 MR. LAKEY: Object to form.

22 A. I guess the question is protocol.  
23 There could be a lot of protocols. Was it a  
24 protocol specifically related to sexual assault  
25 investigations?

1 Q. (BY MS. KRAMER) Here. Let me --  
2 let me ask the question better.

3 Were you provided a sex-related  
4 crimes investigation protocol that preceded the one  
5 referred to here in your meeting with D.A. Finney in  
6 2020?

7 A. Not that I recall.

8 Q. This question I see written down  
9 here is, "What guidance do you expect from your  
10 office on sexual assault investigation now/before?"  
11 Did I read that correctly?

12 A. Yes, ma'am.

13 Q. Do you recall D.A. Finney's  
14 response on this question?

15 A. Well, the -- I do. The protocol  
16 was a direct response, my understanding, of kind of  
17 a changing of the guards at that date. At the  
18 District Attorney's Office, he had hired two new  
19 prosecutors or brought new prosecutors on board to  
20 be a little more structured in the sexual assault  
21 investigations.

22 Q. Do you remember who those new  
23 prosecutors are?

24 A. I don't know.

25 Q. So you mentioned you thought it was

1 a, quote, "changing of the guard."

2 Can you explain what you mean by  
3 that?

4 A. Well, I was focusing on, you know,  
5 what is expected of the D.A.'s Office, right? What  
6 do you -- you know, because the investigators work  
7 for the D.A., right? That's the key. And, you  
8 know, in any investigative unit, you work for the  
9 prosecutor. And so I was kind of looking at, you  
10 know, getting an understanding from him of what he  
11 expects from the investigators. How often does he  
12 expect them to check in? What is -- what does --  
13 what types of topics does he expect them to get  
14 guidance on and, you know, what availability does  
15 his office have to provide that? That was -- that  
16 was the part that we were looking for.

17 And I don't remember exactly what  
18 was going on before, but I do know that when he  
19 was -- when he put this new protocol in play that he  
20 had two attorneys that would -- that were doing his  
21 will in sexual assault investigation cases and child  
22 abuse cases.

23 Q. You just mentioned information  
24 going from investigators to the District Attorney's  
25 Office.

1 Did you speak with D.A. Finney on  
2 guidance that would go from the District Attorney's  
3 Office to the investigators?

4 A. Well, yes, and that's the same --  
5 the same conversation, meaning that the prosecutors  
6 are going to have to provide guidance to the  
7 investigators as to when the case was going to be  
8 closed and when it wasn't going to be closed. So,  
9 you know, the -- if the investigator calls up and  
10 says, "Hey, I have a case. It's not going anywhere.  
11 The victim is uncooperative. What do you want me to  
12 do?"

13 I asked him, what do you -- what do  
14 you expect out of your prosecutors? Do you expect  
15 them just to say, "Okay. Well, we're not  
16 prosecuting or, you know, go make a second effort,  
17 put that in writing, send it to me." What do you --  
18 what do you expect?

19 And I think what the outcome was is  
20 that it -- and again, we had seen some improvement  
21 in investigations in 2021, '22. And I think that  
22 this was part of the continued improvement of more  
23 communications and documentation in the form of  
24 emails going back and forth from the prosecutors to  
25 the investigators.

1 Q. You mentioned sort of a specific  
2 example there in your answer, which is if an  
3 investigator is coming to you and saying, "This  
4 victim doesn't want to prosecute," and your question  
5 to him is, "What do you do? What do you say in  
6 response to an investigator that says that?"

7 Did you get an answer from D.A.  
8 Finney?

9 MR. LAKEY: Object to form.

10 A. The one thing that he said is what  
11 I had testified before, was he was in the same vein  
12 as what I would expect, is that there just needed to  
13 be some documentation as to why. And maybe he said,  
14 "Maybe the prosecutors should try to reach out to  
15 the victim. Maybe we should get a statement or a  
16 non-prosecutorial form, something that clarifies  
17 that the victim is truly not interested in moving  
18 forward with the case."

19 Q. (BY MS. KRAMER) Did you discuss  
20 with D.A. Finney the non-prosecution form that you  
21 found existed that was not regularly used at the  
22 JCPD?

23 MR. LAKEY: Object to form.

24 A. My recollection is that I did ask  
25 him about it, and my recollection -- and the reason

1       why I recall is because my recollection is that he  
2       had no idea what I was talking about, but that was  
3       my recollection. I didn't -- I didn't -- there's no  
4       notes here that directly relate to that.

5               Q.               (BY MS. KRAMER) The next bullet  
6       point says, "What reports can your office see, case  
7       notes, interviews," and I think the last one on --  
8       I'm not sure.

9                               Can you --

10              A.              Forensic.

11              Q.              Forensic? Okay.

12                               What are -- what are the -- why are  
13       you listing these here in your meeting with D.A.  
14       Finney?

15              A.              The advent of body-worn cameras has  
16       led to an integration of databases and -- where  
17       before paper was paper. If I needed to send my case  
18       file over to the prosecutor, I would go make a copy  
19       and fax it over to them, right? But in the world of  
20       technology today, now it's oftentimes where  
21       prosecutors' offices are in the same databases as  
22       the investigators.

23                               So they can see everything that the  
24       investigators do. They have access to the body-worn  
25       cameras. They have access to reports, and it just



1 kind of -- it was just a waste of time for people  
2 just to make copies and bring things over when all  
3 you've got to do is open the database up for  
4 everybody. So my question to them was where were  
5 they in this?

6 Because I'm also dealing with an  
7 archaic record management system. You know, where  
8 do you get your stuff from? How do you get your  
9 stuff? And my recollection was the archaic records  
10 management system was in play at Johnson City,  
11 meaning that they didn't have online access to the  
12 case files, and that it was just coming into play  
13 with other agencies around Johnson City.

14 So, you know, and really body-worn  
15 cameras was a big push of this because of just  
16 making it so prosecutors could view it.

17 Q. So when you -- you know, at the  
18 time you're taking these notes, that there is not a  
19 fully-integrated database between the District  
20 Attorney's Office and the Johnson City Police  
21 Department, correct?

22 MR. LAKEY: Objection to form.

23 A. Well, I don't know. That's why I'm  
24 asking the question. I don't think there is, but I  
25 know from what I'm looking at on the police

1 department side is not pretty strong. So I wanted  
2 to see whether -- you know, maybe they had access to  
3 what the -- the minimal database that was available.  
4 I didn't know. So I wanted to figure that out.

5 Q. (BY MS. KRAMER) Did you find that  
6 out?

7 A. Yes.

8 Q. And did the District Attorney's  
9 Office have access to the case management system  
10 that JCPD was using?

11 A. To my understanding, no.

12 Q. So when you're asking here what  
13 reports can your office see, presumably the answer  
14 is none of these.

15 A. Unless they're -- the answer is  
16 none of these, yes, unless they're given to the  
17 prosecutor in paper form or faxed over, I guess, or  
18 emailed over, because we're in the transition period  
19 there.

20 Q. Did you ask D.A. Finney about the  
21 frequency with which JCPD investigators would send  
22 case notes to the District Attorney's Office?

23 MR. LAKEY: Object to form.

24 A. What do you mean by case notes?

25 Q. (BY MS. KRAMER) My understanding

1 from some of the documents in this case is that when  
2 you're looking at the computer system, there's --  
3 maybe it's called a case summary or a note summary.  
4 It's a narrative that the investigator has written.

5 A. Right.

6 Q. Did you ask -- so I'll call that --  
7 what makes sense to you for me to refer to that? A  
8 narrative?

9 MR. LAKEY: Well, I think I'll  
10 object to that.

11 A. I would call it an incident report.

12 Q. (BY MS. KRAMER) Okay.

13 A. Because when you say case notes,  
14 I'm thinking about what we're looking at right now.  
15 The officer's, you know, notebook or whatever he or  
16 she would take notes in.

17 Q. That's much better. Okay. So  
18 let's say incident report.

19 Did you talk to D.A. Finney about  
20 the frequency with which JCPD investigators would  
21 send an incident report to the District Attorney's  
22 Office?

23 A. No.

24 Q. Did you ask D.A. Finney about the  
25 frequency with which JCPD investigators would send

1 interviews to the District Attorney's Office?

2 MR. LAKEY: Object to form.

3 A. No, but I would qualify by saying  
4 this is -- usually you don't send any of that stuff  
5 unless the grand jury has sat and you need to  
6 prepare it for trial. Like it's just -- every case  
7 file doesn't go to the prosecutor's office. It  
8 usually goes to the prosecutor's office, you know,  
9 if a grand jury is going to be seated or if there's  
10 a -- or if there's an arrest made. Then you would  
11 send it over, unless you needed their opinion.  
12 Unless, let's say, you had a victim interview and  
13 you say, "Hey, can you watch this and let me know  
14 what you think?" But it's just not normal course of  
15 business to send everything over there.

16 Q. (BY MS. KRAMER) Would you expect  
17 that in the process of getting a case closed that  
18 there would be some form of information sent from  
19 the investigator to the District Attorney's Office?

20 MR. LAKEY: Object to form.

21 A. If I understand your question, it's  
22 specific that it matters how the case is closed,  
23 right?

24 Q. (BY MS. KRAMER) Let me rephrase.

25 A. Okay.

1 Q. If a case is being closed for this  
2 non-prosecution reason, would you expect that the  
3 investigator would send materials to the District  
4 Attorney's Office?

5 A. I would expect to find some type of  
6 review. The question is materials. We know what  
7 was occurring, and that was a telephone call was  
8 being made and information was being shared. But --  
9 and I -- and I don't think that's a viable way to do  
10 that, just because of like what we talked about  
11 already.

12 I didn't see, other than a handful  
13 of cases where the non-prosecutorial form was filled  
14 out, I didn't see anything. I'm not looking at the  
15 data sets that the prosecutors have. So I don't  
16 know exactly what's being sent to them. But I do  
17 know from my interactions and from reading reports  
18 where it says, "I contacted or I emailed the  
19 prosecutor." Then I'm giving them credit for what  
20 they put in the report.

21 Q. Well, let's move down to your next  
22 bullet point. I think it says, "What training does  
23 D.A. Office offer for investigators?"

24 Did I read that correctly?

25 A. Yes.

1 Q. Did D.A. Finney provide an answer  
2 for that?

3 A. Well, he had said that he was going  
4 to -- now that the protocol -- because this is, you  
5 know, beginning of December, and the protocol had  
6 just come out a few weeks earlier, that he was going  
7 to work with the department to get some training out  
8 on the protocol.

9 Q. Do you know -- aside from what D.A.  
10 Finney said in this meeting, do you know what  
11 additional training was put in place at the Johnson  
12 City Police Department?

13 A. I do not.

14 Q. Clarify something for me.

15 So there's the idea of  
16 non-prosecution where the victim is saying, "I do  
17 not want to prosecute this case," correct?

18 A. Correct.

19 Q. And then there's a different  
20 decline to prosecute, I'll call it, where the D.A.  
21 says, "I decline to prosecute this case," correct?

22 A. Where the D.A. decides that there  
23 is not sufficient probable cause to move forward,  
24 correct.

25 Q. And those are two distinct reasons

1 for case closure from a law enforcement perspective?

2 MR. LAKEY: Object to form.

3 A. They may be one and the same, you  
4 know, meaning that probable cause without a victim  
5 testifying may be a difficult uphill battle, if that  
6 makes sense. Meaning if you don't have somebody to  
7 put on the stand who was victimized, then you may  
8 not have probable cause in and of itself. So I  
9 think they can go either way or could they actually  
10 be contained? I don't know that.

11 Basically the way that the TIBRS  
12 system puts it is that, you know, refuse to  
13 prosecute. You know, that was part of the issue,  
14 which is why are they refusing to prosecute, and  
15 what information is being conveyed to the prosecutor  
16 that leads to that conclusion?

17 Q. (BY MS. KRAMER) Right, and so -- I  
18 see what you're saying, that they can be related,  
19 but you could have a victim that absolutely wants to  
20 prosecute but, nevertheless, the D.A. declines to  
21 prosecute for whatever reason, right?

22 A. Absolutely. Yeah. It's the D.A.'s  
23 decision.

24 Q. And so is that why it's important  
25 to have this underlying level of detail so that you

1 know whether it was because the victim did not want  
2 to prosecute versus the D.A. determining that the  
3 case could not be prosecuted?

4 MR. LAKEY: Object to form.

5 A. For myself, as a consultant and as  
6 a legal advisor, my problem is really more direct  
7 than that. And that is prosecutors have absolute  
8 immunity. They can't be sued. So police officers  
9 end up taking the beating sometimes on lawsuits that  
10 they didn't have anything to do with. And so the  
11 key is that, you know, you want to protect -- your  
12 investigators should want to protect themselves by  
13 documenting what that is, whether it's a  
14 conversation or whether it's -- whether it's sending  
15 something over, whether getting a -- you know,  
16 getting an email back. But the documentation has to  
17 be there, because there's very limited accessibility  
18 to the prosecutor's office in most states and,  
19 therefore, the officers are the ones that often have  
20 the liability.

21 MS. KRAMER: Can you read back that  
22 answer, please, Jeff?

23 COURT REPORTER: Okay. Give me a  
24 second here.

25 For myself, as a consultant and as



1 a legal adviser, my problem is really more  
2 direct than that, and that is prosecutors  
3 have absolute immunity. They can't be sued.  
4 So police officers end up taking the beating  
5 sometimes on lawsuits that they didn't have  
6 anything to do with. And so the key is  
7 that, you know, you want to protect -- your  
8 investigators should want to protect  
9 themselves, and by documenting what that is,  
10 whether it's a conversation or whether  
11 it's -- whether it's sending something over,  
12 whether getting a -- you know, getting an  
13 email back, but the documentation has to be  
14 there, because there's very limited  
15 accessibility to the prosecutor's office in  
16 most states and, therefore, the officers are  
17 the ones that often have the liability.

18 That's it.

19 MS. KRAMER: Thank you.

20 Q. (BY MS. KRAMER) So is your  
21 testimony that the investigator, to protect  
22 themselves, should document that it was the D.A.'s  
23 decision to close a case?

24 MR. LAKEY: Object to form.

25 A. I would say yes. And I would --

1     like if I sent over a warrant affidavit to -- here  
2     they are states attorneys, but I send it over and  
3     they call up and say, "We're not prosecuting." I'm  
4     like, "All right. Write do not -- you know, not  
5     prosecuting and send it back to me." And then I'm  
6     going to write a supplemental report that says, "On  
7     this date, at this time, I talked to prosecutor  
8     so-and-so and this is what they said. See  
9     attached." And I'm going to close the case, and my  
10    bosses should be expecting that when it comes  
11    through the case file system.

12           Q.           (BY MS. KRAMER) In the situation  
13    that we talked about where the victim is saying he  
14    or she or they do not want to prosecute, how should  
15    that information then be evaluated by the District  
16    Attorney if they are being requested to close a  
17    case?

18                   MR. LAKEY: Object to form.

19           A.           I don't -- I don't know that I can  
20    answer that question, because I'm not the D.A. A  
21    D.A. has a different hurdle to overcome, and that's  
22    prosecuting the case. I don't know. I can assume,  
23    but I don't want to testify as to how to do the  
24    D.A.'s job because I'm not -- I'm not a D.A.

25                   So that is -- you know, what does

1 the effect of a victim saying, "I don't want to  
2 prosecute," what does that do to your overall case?  
3 I can imagine it's not good, but I don't know.

4 Q. (BY MS. KRAMER) If you have an  
5 investigator who is going to the D.A. and the  
6 investigator says, "Oh, we have fantastic evidence  
7 in this case, but the victim does not want to  
8 prosecute," in that instance, is the case closure  
9 going to be categorized as the victim doesn't want  
10 to prosecute or the D.A. doesn't want to prosecute?

11 MR. LAKEY: Object to form.

12 A. I believe the category is the same  
13 either way.

14 Q. (BY MS. KRAMER) In TIBRS?

15 A. Yeah. It just says  
16 non-prosecutorial. It doesn't -- you know, a lot of  
17 things fit into that category, if I remember  
18 correctly.

19 Q. Okay. So your evaluation of the  
20 documents in this case, there was not a clear  
21 distinction between whether it was the D.A.  
22 determining not to prosecute and to close a case,  
23 versus a victim not wishing to pursue the case, and  
24 that being the reason for case closure.

25 MR. LAKEY: Object to form.

1           A.           I would expect that -- I would  
2 expect to find that when an officer -- when a victim  
3 says, "I don't want to prosecute," the officer is  
4 probably going to be very clear about that and -- if  
5 we have a report, right? Because that just solves  
6 the issue right there. "I don't want to prosecute,"  
7 so write it down. "I don't want to prosecute."

8                       I would expect to see that, if that  
9 was the reason that the individual said it. I would  
10 expect to see an officer say, you know, "I brought  
11 in the victim, and the victim said I don't want to  
12 do this." So unless there's an extenuating or a  
13 legal reason why they can continue the case without  
14 a victim, then I expected that to be documented.

15           Q.           (BY MS. KRAMER) And you did not see  
16 that in your assessment; is that correct?

17           A.           I did not see what?

18           Q.           You did not see clear documentation  
19 with respect to the victim declining to prosecute  
20 versus the D.A. declining to prosecute.

21                       MR. LAKEY: Object to form.

22           A.           I did see cases where there was  
23 documentation, truthful or not truthful, that said,  
24 "The victim doesn't want to prosecute." There was a  
25 lot of those cases in the assessment. I just don't

1 know. I don't know.

2 There were some questions as to why  
3 they didn't want to cooperate, right? And that's a  
4 whole other threshold, which is how did we -- how  
5 was the victim treated, you know, what concessions  
6 were made to the victim? But there were cases where  
7 it said clearly that, "I don't want to. You know, I  
8 don't -- I don't want to do this. I don't want to  
9 prosecute."

10 Q. (BY MS. KRAMER) Okay. Let's  
11 continue down on the -- on your notes here of your  
12 meeting with D.A. Finney.

13 The next question is, "What  
14 resources do you provide directly?" I think  
15 that's what --

16 A. It's D.A.

17 Q. D.A. Okay. Sorry.

18 Why don't you read that?

19 A. "What resources do you provide D.A.  
20 for the victim -- for victims."

21 Q. Do you remember asking that  
22 question to D.A. Finney?

23 A. Yes.

24 Q. And what did you learn?

25 A. So this was just occurring at the

1 time that we were there. But what we mean by this  
2 is that across the jurisdictions, the psychological  
3 aspect of these investigations has started to lead  
4 to having independent places where you can interview  
5 victims that are more comfortable, non-hospital  
6 basis, you know, the psychological aspects. And a  
7 lot of District Attorney's Offices and S.A.'s have  
8 victim services like, you know -- like a -- in a lot  
9 of states nowadays, and even in Tennessee, you  
10 can -- you know, if you have a victim of a crime,  
11 there are services that you can call to get the  
12 victim counseling and, you know, to talk to  
13 somebody. And so I was looking at, you know, what  
14 does the D.A. have? What is available?

15 Q. At the time that you asked this  
16 question, what resources was the JCPD providing to  
17 victims of sex crimes?

18 MR. LAKEY: Object to the form.

19 A. Ask that again. I'm sorry.

20 Q. (BY MS. KRAMER) Are you aware at  
21 this time, so late 2022, were you aware of what  
22 resources JCPD already had in place for victims of  
23 sex crimes?

24 A. Well, they already had in place --  
25 and I want to make sure I clarify, because I know

1 there was discussions and there was attempts with  
2 regional services and victim services to put in play  
3 a third-party location where sexual assault  
4 examinations by nurses could be conducted and that  
5 resources could be made available to a victim.

6 I don't know exactly when that went  
7 into play. I know that before -- during the time I  
8 was looking at JCPD's responses that it got better  
9 over the years, but there was -- there was still  
10 work being done to ensure that victims were treated  
11 in a better manner.

12 Q. Do you know if in 2021 victims of  
13 sex crimes were interviewed in the same room as  
14 suspects of sex crimes?

15 A. Yeah, I -- it's -- I want to go  
16 with yes. I know leading up to that point they  
17 were -- that was one of my recommendations in the  
18 report, was that the interview room was a general  
19 interview room that had handcuffs on the floor and  
20 wasn't really attuned to a victim interview room.  
21 And that was something that was occurring in the  
22 industry of law enforcement, where we were starting  
23 to recognize making better rooms to interview  
24 children and victims of crimes that were less, you  
25 know -- or less criminal like, I guess, is probably

1 the best way to.

2 Q. All right. Let me move on here.

3 So at the end there's a question  
4 that says, "Who has final authority to close a case  
5 if it's 18 or over, 13 to 18, or under 13?"

6 Do you remember what, if any,  
7 policy existed at this time?

8 MR. LAKEY: Object to form.

9 A. Policy for --

10 Q. (BY MS. KRAMER) Do you know what  
11 was happening at this time in terms of who had the  
12 final authority to close a case for -- let's just  
13 start with the first one -- victims 18 and over?

14 A. So it wasn't policy. It's law. It  
15 was -- what I was getting at in these -- in my  
16 questions here was in the overall world of a victim,  
17 there are points where a victim doesn't have their  
18 own authority, right? Meaning that I was trying to  
19 figure out which victims the State could take over  
20 as the victim for. And in different jurisdictions  
21 it's treated differently.

22 Meaning below the age of 13, in  
23 most states, whether the victim wants to participate  
24 or not, it may not be the victim's choice because  
25 the State may come over. The State may take over as



1 the victim.

2 Then obviously the next block is 13  
3 to 18 and then 18 and over. Meaning that 18 and  
4 over, the victim can make a decision, you know,  
5 because they're an adult. 13 to 18 was a question,  
6 was an unknown. Under 13 -- because if I'm looking  
7 at reports and I see under 13 as a victim, just  
8 because the victim doesn't want to cooperate, does  
9 that mean we can't prosecute this case? I'm just  
10 trying to understand the law.

11 Q. Okay. Let's move on to Bates  
12 ending in 654. And I just want to understand what  
13 I'm seeing here in your notes. It looks to me to  
14 say, "Complex IA."

15 Do you know what that is?

16 A. No. It's captain of IA.

17 Q. Oh, captain of IA. Okay.

18 And that's Scott Jenkins; is that  
19 right?

20 A. I could have been a doctor.

21 Yes. And so --

22 Q. Did you -- did you interview Scott  
23 Jenkins?

24 A. I did.

25 Q. And I don't see many notes.

1 Do you recall your interview with  
2 Scott Jenkins?

3 A. Yes. I was only interested in one  
4 thing, and that was during the period of 1999 to  
5 2003, had Johnson City Police Department received  
6 any internal affairs complaints specific to sexual  
7 assault investigations.

8 Q. And what did you learn?

9 A. No.

10 Q. Why was it -- why was 1999 to 2003  
11 the relevant time period for you for that question?

12 A. It was the same years I was doing  
13 my assessment in.

14 Q. 1999?

15 A. I'm sorry. 2000. It probably  
16 should have been 2019, but I was looking for the  
17 same period of time that I was doing my assessment  
18 in to determine if there was any internal affairs  
19 complaint. I must have wrote it down wrong.

20 Q. I see.

21 Okay. And it looks to me like  
22 maybe you were -- you were making a note on his  
23 tenure.

24 A. Oh, that's possible. Yes.

25 Q. But you remember, sitting here

1 today, that your question to him was about internal  
2 investigations related to sex crime investigations.

3 MR. LAKEY: Object to form.

4 A. Yes. So anybody make a complaint  
5 against --

6 THE WITNESS: Sorry.

7 MR. LAKEY: It's okay.

8 A. Did anybody make a complaint for  
9 misconduct during this period of time?

10 Q. (BY MS. KRAMER) During the time  
11 period January 2018 through July 2022, you were told  
12 by Scott Jenkins that there had been zero internal  
13 affairs investigations relating to sex crimes; is  
14 that correct?

15 A. There had been no complaints made  
16 that led to an IA investigation during that time,  
17 yes.

18 Q. Okay. On the very last page of  
19 this exhibit there is -- we have some names here.

20 Can you just read those names down?

21 A. I believe it's Sergeant Gary Wills  
22 and Sergeant Shane Williams, and they were the  
23 Criminal Investigation Division sergeants.

24 Q. And you have another note that  
25 says, "Caseload, 25," and then it says, "Unfounded -

1 not in their jurisdiction."

2 Do you know what that's referring  
3 to?

4 A. I was asking what would the term  
5 unfounded be if you used it. I'm trying to get  
6 their interpretation as supervisors, and they said  
7 unfounded, meaning the crime did not occur in their  
8 jurisdiction, which is legitimate. I mean, you have  
9 to send it to somebody else's jurisdiction.

10 Q. In your experience, is the term  
11 unfounded in this context generally used to mean not  
12 in our jurisdiction?

13 A. We didn't -- I wouldn't see it that  
14 way, but I do understand the concept that you can't  
15 prosecute it. You can't investigate a crime not in  
16 your jurisdiction. It has to go to the jurisdiction  
17 whose -- where the crime is committed.

18 Q. Does TIBRS have a category of  
19 unfounded?

20 A. I don't -- I don't know. I don't  
21 remember as I sit here today.

22 Q. Does TIBRS have a category for  
23 outside of jurisdiction?

24 A. No, because you wouldn't take -- if  
25 it was outside of your jurisdiction, you wouldn't

1 take the case number because you can't. So you  
2 would have to send it to the other jurisdiction.

3 Q. Understood.

4 Did you find, in the course of your  
5 interviews or in reviewing documents, any other  
6 understanding of the word unfounded as used by the  
7 JCPD?

8 MR. LAKEY: Object to form.

9 A. Not that I recall, unless it's in  
10 my report somewhere.

11 Q. (BY MS. KRAMER) Going down a couple  
12 lines, you have a note that says, "Exceptional  
13 means."

14 Sitting here today and looking back  
15 at these notes, do you know what you were referring  
16 to here by writing exceptional means?

17 A. I'm still trying to drill down on  
18 what everybody understands the TIBRS's exceptional  
19 means to get rid of a case. I'm still trying to  
20 figure out what everybody interprets this to be. So  
21 I'm just kind of asking everybody the same questions  
22 like, "What do you -- what do you expect closed by  
23 exceptional means or ex-cleared? What do you expect  
24 it to be?"

25 Q. Ex-cleared means exceptional means?

1           A.           That's my term, but that's what we  
2           use, ex-cleared, but it's exceptional means.

3           Q.           And is that term, exceptional  
4           means, is the source of that term from TIBRS?

5           A.           It's for -- the short answer is  
6           yes.

7           Q.           Okay.

8           A.           So you have to remember that each  
9           of the state entities fit into a federal database.  
10          So everybody's pretty consistent.

11          Q.           Did anybody at Johnson City Police  
12          Department -- strike that.

13                       Did anybody from the City, in  
14          connection with your assessment, provide to you a  
15          written description of what it means to clear for  
16          exceptional means?

17                       MR. LAKEY: Object to form.

18          A.           Yes, because it's on the -- it's on  
19          the manual for TIBRS, which is -- I think I put  
20          it -- I even put it in the report. In the initial  
21          phase, it was -- I think it was sent by the sergeant  
22          I was working with. And then I just went and pulled  
23          the manual myself and started looking at the TIBRS  
24          manual.

25          Q.           (BY MS. KRAMER) And what was your

1 understanding of how JCPD investigators were using  
2 the exceptional means code for case clearances?

3 MR. LAKEY: Object to form.

4 A. Not very consistently.

5 Q. (BY MS. KRAMER) Can you say more  
6 about that?

7 A. It just -- you know, the challenge  
8 was that there just wasn't consistency. So I  
9 couldn't figure out, you know, how it should be used  
10 correctly, right? And that's where I was drilling  
11 down on when should -- what is TIBRS's view of how  
12 it should be used correctly.

13 We just found, as you saw the  
14 number of cases, that a large percentage of the  
15 cases were being closed by exceptional means. And I  
16 just wanted to make sure that they're being closed  
17 correctly.

18 Q. Did you find JCPD officers had a  
19 clear understanding of the correct use of clearing  
20 by exceptional means?

21 MR. LAKEY: Object to form.

22 A. I can conclude that they did not,  
23 because I couldn't get consistency in asking that  
24 question.

25 Q. (BY MS. KRAMER) Did you ask whether

1 supervisors at JCPD -- or let me rephrase that.

2 Did you find that there was a  
3 consistent understanding by JCPD supervisors as to  
4 the use of exceptional means for clearing a case?

5 MR. LAKEY: Object to form.

6 A. I can only answer that specific to  
7 what the assessment was, which would have been the  
8 Criminal Investigation Division.

9 And so they -- since they were  
10 the -- since the cases were closed and they -- the  
11 cases should have been reviewed by them on closing,  
12 and they're looking at the same thing I'm looking  
13 at, that there was not -- there's not a clear  
14 application of that exceptional means category.

15 Q. (BY MS. KRAMER) Did you look at the  
16 use of a clearance by exceptional means for any  
17 crimes other than sex-related crimes?

18 A. No.

19 Q. Let me put in the last few  
20 sentences you have here on Bates 66655.

21 It says, "Exceptional means," and  
22 then there's two bullet points. One says, "I don't  
23 want to move forward," and then the second one says,  
24 "D.A. by" -- do you know what that says?

25 MR. LAKEY: Object to form.



1           A.           D.A. by contact.

2           Q.           (BY MS. KRAMER) What do you -- what  
3 do you understand this note to mean?

4           A.           That the sergeants told me that the  
5 exceptional means applies to when a victim doesn't  
6 want to move forward or when they've contacted the  
7 D.A. for closure for non-prosecution.

8           Q.           And then there's just one word, and  
9 I can't tell what it is. It says, "Exceptional  
10 means," and there's a space and then a word.

11          A.           Suspect.

12          Q.           Suspect? Okay.

13                       All right. We can put this aside.

14                       MS. KRAMER: I'm going to mark  
15 another exhibit for the Exhibit 116. This  
16 is Bates number CITY-0066593.

17                       (Exhibit 116 marked).

18                       MS. KRAMER: What time did we go  
19 back on the record?

20                       MR. LAKEY: Jeff?

21                       COURT REPORTER: I'm sorry?

22                       MS. KRAMER: What time did we go  
23 back on the record?

24                       VIDEOGRAPHER: What time did we go  
25 back on the record, you asked?

1 COURT REPORTER: I'm sorry. We  
2 went back on at 12:25.

3 MS. KRAMER: Okay. So we'll go to  
4 1:30.

5 Q. (BY MS. KRAMER) Do you recognize  
6 this document?

7 A. Yes.

8 Q. Did you prepare this document?

9 A. No.

10 Q. Where did it come from, if you  
11 know?

12 A. So when I -- when we first started  
13 the assessment, we were put in contact with a  
14 Sergeant John Hames, who was the records coordinator  
15 for JCPD, and an Officer Steve Bowman was his kind  
16 of assistant. And these were the individuals who  
17 were going to be providing us with our information  
18 we needed to do the assessment.

19 And so this was like one of the  
20 first emails that we got -- I got from Sergeant  
21 Hames. And basically he kind of sent some contact  
22 information, some basic information about what we  
23 expect to find, and some basic information about  
24 TIBRS, the TIBRS system.

25 Q. If you look on the third paragraph

1 of this email from Sergeant Hames, it says, "Our  
2 Crim Inv Division reports that a case file is not  
3 routinely completed unless an arrest is made."

4 Do you see that?

5 A. Yes.

6 Q. Do you interpret that to mean that  
7 the case file itself is not completed at all unless  
8 there's an arrest in the case?

9 MR. LAKEY: Objection to form.

10 A. I interpret him saying it's not  
11 routinely completed, which means that what I  
12 found -- this is even before we started looking at  
13 anything. So he was basically saying, "I've got to  
14 go find some stuff. It's not in the case file."

15 Q. (BY MS. KRAMER) And this was with  
16 respect to the entire Criminal Investigations  
17 Division.

18 Is that your understanding?

19 MR. LAKEY: Object to form.

20 A. That's what it says.

21 THE WITNESS: I'm sorry.

22 Q. (BY MS. KRAMER) Okay. So this is  
23 just a -- this is an email with information provided  
24 to you in the course of you conducting your  
25 assessment, and this describes what I think you

1 referred to before.

2 So on the third page, Bates ending  
3 66593, the TIBRS Data Collection Manual for  
4 exceptional clearance, right?

5 MR. LAKEY: Ms. Kramer, just  
6 because there are several documents that are  
7 Bates numbered the same, I think we have to  
8 say that I think you're talking about  
9 66593-3.

10 MS. KRAMER: You are correct, and  
11 we can -- we'll be able to clarify this when  
12 we provide exhibits. The way they were  
13 produced, the documents weren't separated  
14 with separate Bates. So we used a dash. So  
15 that's actually an added dash. They all  
16 had -- these separate documents had the same  
17 Bates. So --

18 MR. LAKEY: Okay.

19 MS. KRAMER: That's how we received  
20 them, and we'll be able to make it clear  
21 when we're marking --

22 MR. LAKEY: Yeah. So the dashes  
23 that are in the exhibits that have been used  
24 today, where they have dashes, have been  
25 added by you all to differentiate between

1 documents that had just a single Bates  
2 number.

3 MS. KRAMER: Correct.

4 MR. LAKEY: Okay.

5 MS. KRAMER: They were produced in  
6 Word.

7 MR. LAKEY: Yeah.

8 MS. KRAMER: So --

9 MR. LAKEY: Gotcha.

10 MS. KRAMER: So yes, important  
11 clarification.

12 Q. (BY MS. KRAMER) But where we are on  
13 this page is the TIBRS Data Collection Manual.

14 Do you see that, Mr. Daigle?

15 A. Yes.

16 Q. And this is what was provided to  
17 you to explain the meaning of when an incident is  
18 cleared by exceptional means.

19 A. Yes.

20 MS. KRAMER: Did we mark this?

21 MR. LAKEY: This is 116.

22 Q. (BY MS. KRAMER) Okay. Let's turn  
23 to previously marked Exhibit 56, which is your  
24 audit. If we turn to Page 14, please.

25 So on Page 14, I'm looking at

1 Finding No. 2, which says, "The sexual assault  
2 investigations conducted by JCPD have material  
3 deficiencies that can hinder the ability to collect  
4 necessary evidence for a complete and accurate  
5 investigation."

6 Did I read that correctly?

7 A. Yes, ma'am.

8 Q. Do you stand by this finding?

9 A. Yes.

10 MR. LAKEY: So the only other  
11 objection I'll raise, and just keep it for  
12 the record, is that to the degree that  
13 you're eliciting an opinion from him that go  
14 to the ultimate issue.

15 I also have an objection that that  
16 is not appropriate opinion testimony by any  
17 witness because it invades the province of  
18 the Court and, of course, directions to the  
19 jury in case this goes to trial.

20 So I'd like to have a standing  
21 objection on that, as well, Ms. Kramer.

22 MS. KRAMER: Noted.

23 MR. LAKEY: Is that agreeable that  
24 I don't have to make it each time?

25 MS. KRAMER: You do not.

1 MR. LAKEY: Thank you so much.

2 Q. (BY MS. KRAMER) So this finding,  
3 Mr. Daigle, you stand by this finding; is that  
4 correct?

5 A. Yes, ma'am.

6 Q. And this finding was made as a  
7 result of your audit performed on sex-related crimes  
8 from January 2018 to July 2022; is that correct?

9 A. Yes, ma'am.

10 Q. Have you received any additional  
11 information from the City that would alter this  
12 finding?

13 A. No.

14 Q. Have you received additional  
15 information from anyone that would alter this  
16 finding?

17 A. No, ma'am.

18 Q. And in this finding you note  
19 material deficiencies.

20 What are you using to compare JCPD  
21 to?

22 A. As we talked about in building the  
23 assessment tool, that was coming from, you know,  
24 accreditation standards, Department of Justice  
25 consent decrees, from operational knowledge, and

1 from their own policy as to things that should be  
2 done.

3 Q. All of those sources that you just  
4 listed go into the assessment tool, and that forms  
5 the basis for this finding; is that correct?

6 A. Yes.

7 MR. LAKEY: Object to form.

8 Q. (BY MS. KRAMER) Your second to last  
9 sentence in this paragraph starts, "Our review."

10 Can you read that?

11 A. "Our review revealed instances  
12 where JCPD officers likely would have obtained  
13 statements and facts to support a prosecution if  
14 they had used the investigative tactics known to be  
15 effective and essential in sexual assault  
16 investigations, especially investigations of  
17 non-stranger sexual assaults."

18 Q. And do you stand by that finding?

19 A. Yes.

20 Q. And was that finding based on, as  
21 we discussed, the sources that go into your  
22 assessment tool and then the application of that  
23 assessment tool to the cases that you reviewed?

24 A. Yes.

25 MR. LAKEY: Object to form.



1 Q. (BY MS. KRAMER) Did you find, in  
2 your review, specific cases where you concluded that  
3 the investigative deficiencies actually resulted in  
4 non-prosecution?

5 A. I don't know that I can make that  
6 conclusion.

7 THE WITNESS: I'm sorry. 15.

8 A. I don't know that I can make that  
9 conclusion. We were finding the deficiencies and  
10 the problem is deficiencies lead to an incomplete  
11 investigation. You often -- you often can't  
12 prosecute an incomplete investigation.

13 So I'm not going as far as to say  
14 that these were the direct results of  
15 non-prosecution, because I can't do that. I don't  
16 know what the investigators told the prosecutors. I  
17 don't know what the prosecutors used as the form of  
18 their analysis. So I can't make that conclusion.

19 Q. But you did find that JCPD's  
20 investigative practices lead to under-enforcement of  
21 sexual assault laws in Tennessee, didn't you?

22 MR. LAKEY: Object to form.

23 A. No, I did not make that conclusion.  
24 What I said is that JCPD's tactics of not doing  
25 the -- doing investigations the way we'd expect them

1 to, specifically with the collection of evidence and  
2 the interview of suspects and witnesses, has a  
3 detrimental effect on victim rights.

4 I can't -- I can't get to that last  
5 part. I didn't do enough research to know whether  
6 or not these cases are prosecuted, not prosecuted,  
7 or failed as a result of it.

8 Q. (BY MS. KRAMER) Can you read the  
9 first sentence in that paragraph, please?

10 A. Are you talking about Finding 3,  
11 ma'am?

12 Q. No. Sorry. The first sentence on  
13 page -- under Finding No. 2 on Page 14.

14 MR. LAKEY: Page 14?

15 MS. KRAMER: Correct.

16 A. "JCPD's investigative practices  
17 were found to compromise the effectiveness of the  
18 response to sexual assault and lead to an  
19 under-enforcement of sexual assault laws in  
20 Tennessee."

21 Q. (BY MS. KRAMER) Do you stand by  
22 that finding?

23 A. I stand by that finding, yes.

24 Q. You also note at the end of this  
25 paragraph, "These investigative deficiencies

1       compromise the investigative process and  
2       unnecessarily place victims at an increased risk of  
3       harm."

4                       Can you explain what you mean by  
5       placing victims at an increased risk of harm?

6               A.       So especially in the area of  
7       non-stranger sexual assault, which is, you know,  
8       with individuals that may be -- have been in a prior  
9       relationship or in a relationship or might even be  
10      married, you know, by not fully investigating it and  
11      enforcing it, you're -- you might be leaving the  
12      victim in a situation that could increase the risk  
13      to harm for the victim .

14              Q.       At Finding No. 3, this is Page 15,  
15      Finding No. 3 says, "JCPD investigations were found  
16      to be inconsistent, ineffective, and incomplete."

17                       Do you stand by that finding?

18              A.       Yes.

19              Q.       Did you receive any information  
20      after completing this report that would alter that  
21      finding?

22              A.       No, ma'am.

23              Q.       If we look at Finding 3 (a), here  
24      we're getting into the -- well, let me ask you.

25                       So you have the finding, and then

1 we're in 3 (a). So these subparts, is it fair to  
2 say that these are the underlying findings to  
3 Finding 3?

4 A. These are the support --

5 MR. LAKEY: Objection to form.

6 A. This is the support for the  
7 conclusions.

8 Q. (BY MS. KRAMER) The support? Okay.

9 So if we look at (a), "JCPD often  
10 did not attempt to collect evidence or failed to  
11 document the collection of evidence."

12 Here in Footnote 3, you're citing a  
13 JCPD General Order.

14 Do you see that?

15 A. Yes, ma'am.

16 Q. And it looks like the General Order  
17 is incorporated into your report, and you have  
18 included here under the heading Preliminary  
19 Investigations, and then there's an A through N  
20 list.

21 Is that accurate?

22 A. Yes.

23 Q. And you are -- is it accurate that  
24 you've included here what you obtained from JCPD  
25 General Order 600.02?

1           A.           Yes.

2           Q.           Okay. Did JCPD provide to you  
3 General Order 600.02 as the relevant policy for  
4 investigating sex-related crimes?

5           A.           Yes.

6                       MR. LAKEY: Object to form.

7           Q.           (BY MS. KRAMER) This policy was  
8 issued in -- sorry. Would you call -- I mean, we  
9 talked about this a little bit before, but you've  
10 incorporated here this General Order.

11                      Would you -- should we call it a  
12 General Order? Would you call it a policy? Would  
13 you call it a procedure?

14           A.           They call it a General Order. So I  
15 think, for clarity, it should be a General Order.

16           Q.           Okay. And is this the General  
17 Order that JCPD provided to you as relevant for  
18 purposes of a preliminary investigation of a  
19 sex-related crime?

20                      MR. LAKEY: Object to form.

21           A.           It's specific to all criminal  
22 investigations but, you know, a crime is a crime.  
23 The processes must occur no matter what the criminal  
24 investigation is, so -- but this is their criminal  
25 investigation policy.